NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1354 of 2015

1. Amrita Shrivastava daughter of Shri Goutam Prasad Shrivastava Aged About 28 Years R/o Kotma Colliery, Ward No. 12. Block No. 8, Qt. No. 62, P. S. Kotma, Civil & Revenue District Anooppur (Madhya Pradesh), Presently R/o Near Gurudwara, P.S. Telibandha, District Raipur (Chhattisgarh).

2. Anurag Shrivastava S/o Shri Goutam Prasad Shrivastava Aged About 32 Years R/o Kotma Colliery, Ward No. 12. Block No. 8, Qt. No. 62, P. S. Kotma, Civil & Revenue District Anooppur (Madhya Pradesh), Presently R/o Near Gurudwara, P.S. Telibandha, District Raipur (Chhattisgarh).

--- Petitioners

Versus

- State of Chhattisgarh Through: P.S. Supela, Civil & Revenue District-Durg (Chhattisgarh). **--- Respondent**

For the applicant	:	Mr. Devershi Thakur, Advocate.
For the Respondent	:	Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

03.02.2016

1. Apprehending arrest in connection with Crime No. 596 of 2015 registered at Police Station Supela, Durg, Distt. Durg (C.G) for the offences punishable under Sections 420, 409, 120-B/34 of IPC & Sections 3, 4, 5 & 6 of the of the Prize Chits & Money Circulation Scheme (Banning) Act, 1978 the applicants have filed this bail application u/s 438 of the Code of Criminal Procedure.

2. As per the prosecution case, one Yash Group of Companies floated a scheme to collect the amounts from middle class people on the allurement that the amount so deposited will be doubled within a short period of time and thereby 2695 people deposited the amounts in Yash Group so as to get double amount within a short span of time. Subsequently,

the company though was not authorized in money circulation collected the amounts and ultimately the SEBI by its order dated 16.12.2014 directed the Company not to alienate/dispose of the assets and further before that the Company has already collected Rs.21,86,34,016/-. However, the company failed to pay back the amounts in time to different depositors who are down trodden people. Subsequently the Yash Group of Companies after availing the amount has transferred some land which was purchased by the Yash Group in favour of Sharda Developers and it is the case of the applicants that they were stakeholders in Maa Sharda Developers along-with other beneficiaries and they held certain part of share in “Maa Sharda Developers”. It is the case of prosecution that applicants Amrit Shrivastava and Anurag Shrivastava were the directors of the Yash Group and have also used to visit the Yash Group while the company was dealing in its business and in order to further deceive the people Yash Group transferred the land by 3 different sale deeds in favour of “Maa Sharda Developers”.

3. Learned counsel for the applicants submits that the entire allegations are against Yash Group and not against M/s. Sharda Developers and the applicants are only the share holders to the extent of 15% each in Maa Sharda Developers and in all Rs.15 lakhs was invested in the said Company and the amounts so invested have been accounted for. It is further submitted that the entire allegations are on the Yash Group and “Maa Sharda Developers” is purchaser of the lands and the applicants who are stakeholders in Maa Sharda Developers have no idea about the fact that business transactions are of the Yash Group. He further submits that

even the SEBI issued the order dated 16.12.2014 and the land was purchased before that on 08.04.2014, 17.09.2014 & 30.09.2014, therefore, considering the role played by these applicants, no offence has been committed.

4. Learned State Counsel opposes the bail application and would submit that the applicants were completely in the helm of affairs of Maa Sharda Developers as would be evident from the statement of witnesses and while the Yash Group was in operation, these applicants also used to control and manage the affairs on behalf of the company and in order to deceive people, certain amounts have been transferred by making another Company in the name of M/s. Sharda Developers and the amount of Rs.17 lakhs have been transferred in the name of Sharda Developers. Learned State Counsel further submits that the charge sheet has been filed and against the applicants further investigation is being made u/s 173(8) of Cr.P.C., and the applicants are necessarily required for interrogation.

5. Perused the case diary and documents. Perusal of the document shows that Yash Dream Real Estates Limited have received different amounts from the stakeholders with an assurance to double the amount within a short span of time and subsequently SEBI has issued order dated 16.12.2014 whereby it was ordered that Yash Group would not alienate property to any one as they were not authorized for money circulation.

6. Perused the statements of Vikash Navkarkar, Rajkumar Jaiswal & Umesh Kumar Sahu. Witnesses Vikash Navkarkar and Rajkumar Jaiswal who are said to have been working in the Yash Dream Real Estates have stated that Anurag Shrivastava and Amrit shrivastava also used to visit the

office while the office of Yash Dream Real Estates was in operation.

7. Considering the way in which the offence has been committed wherein a huge amount of around Rs.22 crores has been collected from as many as 2965 investors who were defrauded and further taking into totality of the facts and circumstances of the case, it cannot be said that it is a case where the custodial interrogation of the applicants would not be required. Thus I am not inclined to allow this anticipatory bail application. Accordingly, it is rejected.

Sd/-

GOUTAM BHADURI
JUDGE

Rao