

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 535 of 2017

- Rakesh Tomar S/o Shri Shobharam Tomar Aged About 50 Years
R/o 166, Venus Apartment, Sector: 19, Rohini, Delhi.

---- **Petitioner**

Versus

- State of Chhattisgarh Through The Police Station, New Rajendra
Nagar, Raipur, District Raipur, Chhattisgarh.

---- **Respondent**

For Applicant : Mr. N. Naha Roy, Advocate

For Respondent/State : Mr. Ashish Shukla, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

15-03-2017

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 14-12-2016 in connection with Crime No. 22 of 2015, registered at Police Station New Rajendra Nagar, District Raipur (CG) for the offence punishable under Sections 420, 409, 34 of the IPC and Sections 3 & 4 of the Prize Chits and Money Circulated Schemes (Banning) Act, 1978 and Section 138 of the Negotiable Instruments Act, 1981.
2. As per prosecution case, a report was made by one Rajendra Giri Goswami that he along with his relatives deposited the amount in HBN Dairies and Allied Company and on its maturity the complainant was to be paid Rs.92,250/- by the company. Certain cheques were given to the complainant by the company. When the cheques were presented in the bank for encashment, the

cheques got dishonoured. Likewise, the company collected huge amount from different depositors with assurance to double the same within a short period, however, the same was not done and the office of the company was closed. It is further alleged that said circulation was done without obtaining valid permission from the Reserve Bank of India or the SEBI and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that the applicant had already resigned in the year 1999 and the first information was made in the year 2015 and he had no control over the company, therefore, whatever has been done, he was not a party to it. He would further submit that charge-sheet has been filed in this case, the applicant is in jail since 14-12-2016 and no further investigation is required, therefore, he may be released on bail.
4. On the other hand, learned State counsel opposes the prayer for grant of bail and would submit that initially the applicant was working as Director and as per the order of SEBI which was passed on 12-12-2015, the role of the applicant has not been side lined. He would further submit that the applicant being Director deceived the people and committed the offence and an amount of Rs.65,21,68,397/- is to be returned to 97,707 depositors.
5. I have heard learned counsel for the parties, perused the case diary and documents.
6. Perused the statements of the witnesses and also the order of SEBI. It appears that the applicant was one of the Directors of the company and he took policy decisions of the company. It appears further that 97,707 depositors have made deposits with

hope to get high returns. However, the same is not done and more than Rs.65,21,68,397/- is to be returned to number of depositors.

7. Considering the defence made by the applicant, it cannot be appreciated at this stage. The role played by the applicant cannot be completely side lined. Further considering the statements of the depositors, the fact remains that till date the mount deposited by the depositors have not been returned to them. Therefore, prima facie, it appears that the money was collected from large number of depositors who were poor down trodden on the pretext and allurements to double the same within a short period, but they were defrauded as no payment was made on maturity. Therefore, evaluating the gravity of accusations and considering the stakes of the small depositors as against the company people, reasonable apprehension of witnesses being influenced cannot be ruled out.
8. Taking into consideration all the facts and circumstances of the case, considering the fact that the applicant was one of the Directors of the company who took policy decision of the company, he was arrested after permanent arrest warrant was issued to him on 10-11-2015, further considering the statements of the depositors, the evidence collected by the prosecution and the way the organized offence has been committed and different amounts have been collected from the down trodden people, I am not inclined to release the applicant on bail.
9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju

