NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1281 of 2017

MCRC No. 1194 of 2017

Reserved for orders on 10.03.2017

Order delivered on 22.03.2017

MCRC No. 1281 of 2017

- Ramesh Choudhari S/o Surajmal Choudhari, R/o Shivaji Nagar, Amrawo, Gwalior, Police Station Kampu, District Gwalior Madhya Pradesh **--- Applicant**

Versus

- State of Chhattisgarh through Police Station Bhilainagar, District Durg Chhattisgarh **--- Respondent**

MCRC No. 1194 of 2017

- Ramesh Choudhari S/o Surajmal Choudhari, R/o Shivaji Nagar Amrawo, Gwalior, Police Station Kampu, District Gwalior Madhya Pradesh **--- Applicant**

Versus

- State of Chhattisgarh through Police Station Telibandha, Raipur District Raipur Chhattisgarh **--- Respondent**

For the applicant	:	Mr. Mrigendra Singh, Sr. Advocate with Shri Sumit Singh, Advocate.
For the State	:	Mr. Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

CAV ORDER

1. These are two bail applications filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant. M.Cr.C.1281/2016 relates to Crime No.542 of

2016 registered at P.S.Bhilai Nagar, Distt. Durg (C.G) for the offence punishable under Sections 420, 120-B of IPC and Section 10 of the C.G. Protection of Depositors Interest Act, 2005 and M.Cr.C.No.1194/2017 relates to Crime No.05 of 2016 registered at P.S. Telibandha, Raipur, Distt. Raipur (C.G) for the offence punishable u/ss 420/34, 120 & 201, 409 of IPC and sections 3, 4 & 5 of Prize Chits and Money Circulation Scheme Banning Act, 1978 and Section 10 of the C.G. Protection of Depositors Interest Act, 2005. Since in both these crime numbers, the applicant is involved in similar offences, both these bail applications are being decided by this common order.

2. As per the prosecution case, the Company Devyani Properties Limited opened its office at Telibandha, Raipur and got the money deposited from various depositors with an assurance to return the same with high rate of interest and double the amounts being deposited by them under the money circulation scheme. However, after lapse of maturity date, neither the money was returned to the depositors nor any property in lieu thereof was given thereby the Company has deceived the public at large. It is alleged that the said transactions were made without obtaining permission of the Reserve Bank of India or the SEBI.

3. Shri Mrigendra Singh, learned senior counsel appearing for the applicant assisted by Shri Sumit Singh in both the cases would submit that as per the documents filed with this petition, it would show that initially the applicant was director of the Devyani Properties Limited and he resigned the office of director of the said Company on 29.11.2010 and

his resignation was accepted on the same date itself. He referred to the FIR and would submit that according to the FIR itself the incident occurred between November 2012 and 03.01.2016 consequently it would show that the applicant himself having resigned from the office of Director of the Company, he cannot be held liable for the act done by the Company after his resignation. It is further submitted that the charges have not yet been framed and the applicant is in jail since 10.10.2015. He referred to two orders passed by the learned court below as also the orders passed by this Court in M.Cr.C.No.3952 of 2016, M.Cr.C. No.3112/2016, 2477/2016, 2551/2016 & 2442/2016 whereby the other accused who were agents of the Company have been enlarged on bail and would submit that the case of the present applicant is similar to that of other accused as the case of present applicant as well as agents would fall within the ambit of section 10 of the Chhattisgarh Protection of Depositors Interest Act. He further submitted that the facts would show that even applicant is not remotely connected with the Company while deposits were collected by the Company at the relevant time. It is further submitted that as many as 56 witnesses are enlisted and the other documentary evidence is also voluminous, therefore, in view of the law laid down by the Supreme Court in ***(2012) 1 SCC 40 Sanjay Chandra Vs. Central Bureau of Investigation,*** the long pre-trial detention would offend the right of applicant as prima facie no offence has been committed, therefore, the applicant may be enlarged on bail.

4. Per contra, learned State Counsel opposes the bail and submits that the applicant was one of the director of the Company from 2009. While the offence was opened and after resignation certain properties were purchased by him in his name which were further directed to be seized by the Collector. He further submits that being director the applicant has taken many police decisions on behalf of the Company and the rent agreement was also executed through authorized signatory on 10.03.2011, therefore, the applicant is not entitled to be released on bail.

5. Perused the case diary and documents. A perusal of the case diary would show that the report was made by one of the investor stating that they were allured to deposit the amounts in the company namely Devyani Properties Limited with an assurance to get the return with high values. However, eventually the Company could not pay and the office of the Company was closed. A joint reading of documents in both the cases would show that though the applicant claimed to have resigned, yet he was working as Director of the Company and one of the rent agreements was executed on 10.03.2011. The rent agreement was executed with one Tarachand Naynani. During the course of investigation, no document of resignation came to fore and the documents have been placed during hearing of bail applications. The statement of witnesses show that the applicant along-with others contacted different depositors in the year 2012 to deposit money in the Company. It appears that while the Company was established, the applicant was one of the directors. The memorandum of the applicant

would also show it was stated that the applicant got the work done through its agents and he deliberately did not sign any paper.

6. A perusal of the statements of depositors would show that in the year 2010 itself he was allured to transfer the money with an assurance to get high return from the Company as such he transferred the amount in the company. Eventually he did not receive the return. Therefore, the plea of applicant that he had resigned his office of director on 29.11.2010 and had not played any role and all the offence was committed after 2012 cannot be accepted as it would amount to exonerating the applicant from the offence at this stage.

7. Taking into the facts and circumstances, it appears that the applicant was in the helm of affairs to manage the company and the fact remains that till date the amounts have not been returned to the complainant. It also appears that huge amounts were collected from large number of depositors who were poor down trodden on the pretext and allurement to double the same within a short period but they were defrauded as no payments were made on maturity.

8. 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. Further if the position and stand of the accused is evaluated as against the depositor witnesses, it cannot be equated and it raises presumption of tampering of the witnesses. Hence considering the gravity of offence, the way the organized

offence has been committed and different amounts have been collected from the complainant and other downtrodden people, I am not inclined to release the applicant on bail. Accordingly, this bail application is rejected.

Sd/-
GOUTAM BHADURI
JUDGE

Rao