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HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 374 of 2017

Om Sonkar, aged about 49 years, S/o. Shri Vishal Sonkar, R/o. Purani Basti, Purani Basti Police Station, District – Raipur (C.G.)

----Applicant

Versus

State Of Chhattisgarh, Through : the Station House Officer, Police Station – Mohan Nagar, Durg, District -Durg, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Arvind Dubey, Advocate
For Respondent/State	: Mr. U.K.S. Chandel, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

15/11/2017

1. Apprehending arrest in connection with Special Criminal Case No.7/2016, registered at Police Station- Mohan Nagar, District – Durg (C.G.), for offence punishable under Section 420, 406, 409, 120-B and 34 of the Indian Penal Code and Section and Section 10 of Chhattisgarh Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam, 2005, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicant that applicant is a land broker engaged in business of property dealing. The directors of the M/s. SUSK India Limited approached the applicant for purchase of land, after some negotiation agreement to sell was executed between the applicant and the directors of the M/s. SUSK India Limited on 20.01.2011, in which applicant has received Rs.81.00 lakhs as advance money and the execution of sale deed was to be performed later on, as per the terms and

conditions of the agreement. Case has been registered against the directors and employees of M/s. SUSK India Limited for offence of cheating, forgery, breach of trust and conspiracy etc..

3. Applicant is neither a director nor any employee of the said company. He has simply entered into an agreement with the said company for sale of landed property. He has not been instrumental in the said offence of cheating the investors and misappropriating the amount etc. He does not dispute the receiving the advance money of Rs.81.00 lakhs from the directors of M/s. SUSK India Limited. As the sale deed has not been executed till date, because of which applicant has filed civil suit before the Court of District Judge, Raipur praying for declaration that agreement dated 20.01.2011 has became in-executable and the amount received as an advance money has became nonrefundable, hence prayed that the applicant is no where connected with the offence committed by M/s. SUSK India Ltd., he may be granted anticipatory bail.

4. Per contra learned State counsel opposes the application for grant of bail and the submission made in this respect. It is submitted that one Sushil Sarkar arrayed as an accused in the case is related to the applicant, who happens to be the maternal uncle of the applicant. Hence looking to this fact, it is apparent that applicant had been a part of commission of offence of cheating the investors of the State by misappropriating the same through agreement to sale etc., hence, prayed that the applicant is not entitled to be released on bail.

5. I have heard the learned counsel for the parties and perused the case diary and the documents.

6. As per the case against the applicant, the directors and employee of M/s. SUSK India Ltd. have allured various depositors by proposing deposit schemes, in which amount deposited was to become double in 6 years, triple in 8 years and four times in 11 years, because of which various investors have invested huge amount of money in the said company by inducement so given. Thereafter, the company winded-up and cheated the investors. It is alleged that uncle of the applicant and the applicant have managed and planned to siphon off the money deposited by the creditors to the tune of Rs.3,80,00,000/-.

7. Considered the submissions made and the contents of the case diary. There is no direct evidence against against the applicant that he has been a part in collecting money from the investors or inducing them to make deposit in the company. The only evidence against him is the agreement entered between the applicant and the directors of M/s. SUSK India Ltd., which is a civil agreement and because of non-performance on the part of the directors of M/s. SUSK India Ltd., applicant has filed the civil suit to declare the said agreement as inexecutable. Taking into the consideration, the facts and the submissions made, this Court is inclined to extend the benefit of anticipatory bail to the applicant.

8. Accordingly, the anticipatory bail application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

(i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;

(ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;

(iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram