

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 3627 of 2017**

- Deepak Jha S/o Sunderkant Jha Aged About 25 Years, R/o 33/479, Bhadeshwar Housing Society, Sardar Nagar, Ahmadabad, Gujrat

---- Applicant**Versus**

- State Of Chhattisgarh Through District Magistrate, District Durg, Chhattisgarh

---- Non-applicant

For Applicant : Shri Ashish Shrivastava, Advocate.
 For Non-applicant/State : Shri Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai
Order On Board

02.8.2017

Heard the matter finally.

2. Learned counsel for the applicant would submit that the applicant held arrested in connection with Crime No.29/17 on 20/03/2017 by Police Station Bhilai Nagar, Distt. Durg, C.G. for the offence under Section 420, 409 read with Section 34 of the IPC. After investigation Police had filed the charge-sheet against two accused persons, i.e., co-accused Pranav Chauhan and the present applicant which is pending before JMFC Durg (C.G.) as Criminal Case No. 2670/17. Learned counsel for the applicant would submit that though the co-accused Pranav Chauhan has also preferred MCRC No. 3633/2017 represented by the same counsel and the said MCRC is adjourned at the request made on behalf of the said applicant, but as instructed and as prayed by the present applicant, despite the bail petition of co-accused is pending and adjourned, the present matter may be heard and disposed of finally.

3. Learned Counsel for the applicant would submit that the

present applicant was a computer operator in Rain Mudra Company. The said company has a tie-up with one USA based company LLC Marketing and as there is some transaction taken place, some money invested to the said USA based company through Rain Mudra Company where the applicant was working as computer operator and as the investors were not got their money back, they have filed FIR. There is no role of the applicant for anything. He is an employee of said Rain Mudra Company to maintain the record. He is in custody. On 17/04/2017 charge-sheet has been filed. There are only general allegations against the applicant, as he has no role and no any specific act for the offence, he may be enlarged on bail.

Learned Counsel for the applicant placed reliance on **Sanjay Chandra Vs Central Bureau of Investigation** reported in (2012) 1 SCC 40, wherein it has been held in paras - 21, 22 and 23 which reads as follows :-

“(21) In bail applications, generally, it has been laid down from the earliest times that the object of bail is to secure the appearance of the accused person at his trial by reasonable amount of bail. The object of bail is neither punitive nor preventative. Deprivation of liberty must be considered a punishment, unless it is required to ensure that an accused person will stand his trial when called upon. The Courts owe more than verbal respect to the principle that punishment begins after conviction, and that every man is deemed to be innocent until duly tried and duly found guilty.

(22) From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he

has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

(23) Apart from the question of prevention being the object of refusal of bail, one must not lose sight of the fact that any imprisonment before conviction has a substantial punitive content and it would be improper for any court to refuse bail as a mark of disapproval of former conduct whether the accused has been convicted for it or not or to refuse bail to an unconvicted person for the purpose of giving him a taste of imprisonment as a lesson.”

and would submit that looking to the entire facts and the principles reiterated by Hon'ble the Apex Court, the applicant may be enlarged on bail.

4. Per Contra, learned counsel for the Non-applicant/State opposed the argument advanced on behalf of the applicant and would submit that total Rs.53,54,000/- were not returned to the investors along with other facts. In the FIR name of the applicant is surfaced showing his role and also during investigation Police had recorded the statement of B.L. Nagpure, D Shyam Murti, Rahul Maroti, Azhar Khan and others under Section 161 of the Code of Criminal Procedure. They have all stated the role of the applicant in the matter. Hence, the instant MCRC may be dismissed.

5. Peruse the entire material.

6. On consideration of the entire evidence collected against the applicant, I am not inclined to grant the bail to the applicant. Consequently, the instant MCRC is hereby dismissed.

Sd/-
(Chandra Bhushan Bajpai)
Judge