HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 1212 /2016

Smt. S.Kanaklata, W/o. Shri Naresh Kumar, Aged About 34 Years, Data Entry Officer/ Customer Care Officer, S.B.I. Mutual Fund, Add: B.M.Y. Charoda, Railway Quarter No. 1217/A, Charoda, Tahsil & District Durg, Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh, Through Station House Officer, Police Station Supela, District Durg, Chhattisgarh
2. Gayaprasad, S/o. Late Nathun Ram, R/o. Flat No. B/4, Chouhan Town, Junwani Road, Bhilai, District Durg, Chhattisgarh

---- Respondents

For Applicant	:	Mr. Animesh Verma & Mr. Prateek Sinha, Advocates.
For Respondent	:	Mr. Neeraj Jain, Govt. Advocate.
For Objector	:	Mr. Ankit Pandey, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

13/01/2017

1. Apprehending arrest in connection with Complaint Case No.3204/2016 pending before the J.M.F.C. Durg, District Durg (C.G.) for the offence punishable under Section 418, 420, 467, 468, 471/34 of Indian Penal Code, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.

2. As per the prosecution case, Gayaprasad, the complainant, had invested certain amount in SBI Mutual Fund and while the amount was in hold with the SBI Mutual Fund, one another person personified himself to be Gayaprasad opened an Account at HDFC Bank and thereafter redeemed the investment with new Account

number whereby after redemption, the amount of maturity was paid in such Account of HDFC Bank whereas in the earlier KYC application, the Account of Gayaprasad was shown to be with SBI. It is alleged that the present applicant Kanaklata was working with the State Bank Non Banking Financial Company which accepts the application for investment in Mutual Fund as also for the redemption and without verification of the application for redemption, it was forwarded by the applicant; thereby the fraud has been committed along-with other co-accused.

3. Learned counsel for the applicant would submit that the incident is of the year 2011. Subsequently, the person who actually opened an Account with HDFC Bank was arrested and the applicant was cited as a witness by the prosecution. It is submitted that as per the system prevailing, the KYC application i.e. Know Your Customer is being delegated and outsourced to one Company CDSL Ventures Limited who collects the entire database of the customers. The Non Banking Financial Company of SBI Mutual Fund when the amount is received, the management of the Account are also delegated to CAMS who maintain the data of the customers so as to identify the identity of the customers. It is submitted that when the forged Account was opened in the name of Gayaprasad with HDFC Bank, an application for redemption as also the change of Account number was filed on the basis of forged documents and the applicant in discharge of her duty has forwarded the same to CAMS. It is further submitted that CAMS further intimated the applicant about the change of Account number as to whether the amount be redeemed in such Account and thereafter, the amount was transferred to HDFC Bank by the Corporate Office of the Mutual Fund and thereby the applicant had not played any role and

only has acted to accept and forward the application for redemption. Therefore, she has not committed any offence. It is further submitted that the complaint which was filed subsequently would show that no specific allegations have been attributed to the present applicant, therefore, the applicant may be enlarged on bail.

4. Per contra, learned State counsel and learned counsel for the objector opposes the prayer for grant of anticipatory bail. It is submitted by the learned counsel for the objector that the order of Trial Court would show that the applicant has verified the PAN and forwarded the application for redemption, therefore, the applicant has committed fraud.

5. Perused the complaint as also Annexure A-6, which was sent to Gayaprasad by the CAMS. Considering the role played by the present applicant, who was at the office of SBI Mutual Fund, who forwarded the application for redemption with the change of Account number, which further found to be forged and the person who opened the Account was subsequently arrested and further taking into the facts of this case, I find it to be a fit case where the benefit of Section 438 of Cr.P.C. can be extended to the applicant.

6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail by the officer arresting her on furnishing a personal bond to a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Trial Court. The applicant shall also abide by the following conditions :

(i) that the applicant shall make herself 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 her by the said Court till disposal of the trial.

Ashok

Sd/-
(Goutam Bhaduri)
Judge