

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8178 of 2016

- Ashok Kumar Shrivastava S/o Late Mathura Prasad Shrivastava, Aged About 40 Years R/o Baikunthpur (Mahalpara) Near Sharma Hospital - Baikunthpur, District Koriya Chhattisgarh

---- Petitioner

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station - Kotwali, Out Post Rampur, District Korba Chhattisgarh

---- Respondent

For Applicant : Mr. Ashok Kumar Shukla, Advocate

For Respondent/State : Mr. Anupam Dubey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

07-02-2017

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 25-10-2016 in connection with Crime No. 102 of 2016, registered at Police Station Kotwali, O.P. Rampur, District Korba (CG) for the offence punishable under Sections 406, 409, 420, 120-B read with Section 34 of the IPC and Sections 10 of CG Protection of Interest of Depositors Act, 2005 and Sections 4, 5 and 6 of the Prize Chit and Fund Operation Scheme Prohibition Act, 1978.
2. As per prosecution case, on 26-2-2016 a report was made by the complainant Tarachand Thakur and others that the applicant's organization namely Radiant Real Estate Chit Fund Company through its agents and Directors of M/s Sarvamangala Properties

India Limited allured different people to deposit the money from various persons with an assurance to return the same with high rate of interest and when the maturity date came, the amounts of depositors/complainants could not be returned and the said company was closed at Korba. It is alleged that huge amounts were collected and circulated by the company 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 has become scape-goat in this case, when the said offence appears to have been committed in the year 2013, 2014 and 2015 Brij Kishor Bhattar was holding the key post such as Director of the company whereas applicant was working as an agent. It is stated that by suppressing the other Director got some documents signed by the applicant and he was arrayed as Director which he was not aware. He would further submit that one of the Directors has been enlarged on bail by the trial Court only on the ground that he had resigned from the post. Here in the instant case, the entire burden has been passed over the head of the applicant though he had invested money of his own family members which would show that he has not committed any fraud. He would further submit that charge-sheet has been filed in this case, the applicant is in jail since 25-10-2016 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.
5. I have heard learned counsel for the parties, perused the case diary and documents.

6. Perused the reply filed by the State. The documents which were obtained from Ministry of Corporate Affairs, Government of India, would show that the applicant was one of the Directors appointed in the year 2014. Brij Kishore Bhater who has been granted bail by the trial Court was also shown to be Director from the year 2011 – 2014 when offence appears to have been committed. The Court cannot ignore the documents (Ex. D/2) filed by the State and also shall not be guided by the order of the trial Court so as to advance the cause of parity on apparent *prima facie* wrong facts.
7. Taking into consideration all the facts and circumstances of the case and further considering the documents placed before this Court by the State counsel, it appears that the applicant in the helm of affairs of other Directors took vital policy decisions on behalf of the company and further considering the way offence has been committed in an organized manner, I am of the considered opinion, *prima facie* that it is not a fit case where the applicant can be enlarged on bail.
8. 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