NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4463 of 2016

Judgment reserved on : 11.01.2017
Judgment delivered on : 13.01.2017

Smt. Vandana Balasaheb Bhapkar, W/o. Shri Balasaheb Bhapkar, Aged About 51 Years, R/o. CTS No. 1175, Bhakti Paradise Building No. 3, Link Road, Flat No. 14, P.O. & P.S. Chincvad (Tehisl - Haveli), District - Pune (Maharastra).

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station- Rajhara, Revenue & Civil District - Balod, Chhattisgarh.

---- Respondent

For Applicant	:	Dr. N.K.Shukla, Senior Advocate with Mr. Kshitij Sharma, Advocate
For Respondent/State	:	Mr. Anil S. Pandey, Govt. Advocate
For Objector	:	Mr. Ajay Mishra, Advocate

Hon'ble Shri Justice Goutam Bhaduri

C.A.V. Judgment

13.01.2017

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.78/2015 registered at Police Station- Rajhara, District Balod (C.G.) for the offence punishable under Section 420 r/w 34 of Indian Penal Code, Section 3, 4, & 5 of Prize Chits & Money Circulation Scheme (Banning) Act, 1978 and 58(F) of RBI Act, 1934.

2. As per the prosecution case, applicant was the Director of Sai Prasad Properties Limited, Sai Prasad Food Limited and Sai Prasad Company Limited. Applicant being Director of the Company, on instructions the Companies have collected various amount from 13,49,616 customers and thereafter only have refunded claim to 456 customers. The money were collected and invested in different schemes of company with assurance to deposit the same in recurring deposit, fixed deposit and monthly deposit with an assurance to return the same with high interest. Further to few of the customers they having deposited amount the bonds were issued. According to the prosecution, applicant's company was not authorized by the SEBI, Reserve Bank to collect amount for like nature and therefore offence is committed under Section 3, 4, 5 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and Section 34 & 420 of the Indian Penal Code & Section 58-F of the RBI Act, 1934.

3. Learned counsel for the applicant would submit that the case is registered under the Prize Chits & Money Circulation Scheme (Banning) Act, 1978 wherein the cognizance of the offence cannot be taken directly and in the instant case, the depositors who alleged to have deposited the amount in 2014, the date of maturity has not been reached as it is late in the year 2017-2018. Consequently, the Company of the applicant cannot be said to have defaulted. It is further submitted on the basis of the documents at the present fair market value of the property at Chhattisgarh estimated Rs.32,71,95,000/- and the distress value would come to Rs.26,17,56,000/-, therefore, the applicant who is a lady is in custody since 11.09.2015 and as such the punishment

has already been suffered by the applicant as she is in jail since more than one year, therefore, she may be released on bail.

4. Per contra, learned State counsel and learned counsel for the objector vehemently opposes the prayer for grant of bail. It is submitted that the applicant's Company on the basis of different schemes floated, the money was collected from the down trodden people of Chhattisgarh and Eleven crimes were registered against the present applicant and others, out of which Eight crimes are related to Chhattisgarh. It is stated that in the instant Crime No.78/2015 more than Rs. 10 Crores have been collected, however, collectively in different Crimes total Rs.200 to 300 Crores have been collected from the people at Chhattisgarh and on 24.07.2016 again a group of investors of 116 their money have been siphoned away by the Company of the applicant and complaints have made. It is submitted that after rejection of the earlier bail no change of circumstances have taken place, therefore, the applicant is not entitled for reconsideration of the bail.

5. Perused the case diary, documents as also the reply of the State and the objection raised by the Investors. One of the statement of Ajay Singh Rathore who was working as Agent categorically stated that he was one of the Agent of the Company and 3000 Agents were working in the Company and different bonus and amounts were paid to the Agent on the basis of the collection at Chhattisgarh by the Company from the different down trodden people as Rs.200 to 300 Crores have been collected and no money has been returned. Perusal of the case diary and the documents would show that the applicant who was one of the Director of the Company and though the Companies have collected different amount, however,

no amount has been returned. The documents would show that no efforts have been made to return the amount except bald assurance, therefore earning huge sum in lieu of period in jail cannot be equated. Considering the position of the accused/applicant as against the investors who appears to be mainly down trodden and the grass root cannot be equated and considering the way the offence has been committed in an organized manner and taking into gravity of charge, I do not find any change of circumstances to reconsider the instant second bail application.

6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Ashok