

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 5362 of 2017**

Amit Agrawal S/o Shri Rammurti Agrawal, Aged About 43 Years R/o Sai Kunj, Near Agrasen Bhawan, Durpa Road, Korba, Tahsil & District Korba, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station Kotwali, District Korba, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Amiyakant Tiwari, Advocate.
For the Respondent/State	:	Shri Neeraj Sharma, Deputy Government Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****21.09.2017**

1. Heard on application under Section 439 of the Code of Criminal Procedure, 1973.
2. It is submitted by counsel for the applicant that the applicant is in jail since 25.7.2017 in connection with the offences under Sections 420, 406 read with Section 34 of the Indian Penal Code. The investigation has been completed and the charge-sheet has been filed before the Court.
3. It is submitted that complainant – Smt. Amita Singhal has lodged the First Information Report against the petitioner and other accused persons alleging that she has deposited security amount with 'All Process Sources Solutions Private Limited Company' (for short 'the Company') on the assurance given by the applicant that he was the franchise holder of the

Company. The Company has winded up the business from the locality and the whereabouts of the company are not known, when the complainant approached the applicant for refund of the amount deposited, who again gave assurance for refund but thereafter, he has been arrested.

4. It is submitted that as per the agreement between the applicant and the Company, the applicant was simply a service provider and he also has deposited security amount with the Company which is lost as the Company was winded up hence, applicant is also one of the affected party. The defalcation has been committed by the Company, as the security amount deposited has not been received by the applicant and he was not entrusted with the amount in any manner. Apart from that, complainant – Smt. Amita Singhal has filed an affidavit before the Court below stating that she has no objection if the applicant is enlarged on bail and it has not been taken into consideration by the Courts below.

5. It is submitted that the Company worked on digitalization of records and books, had collaborated with the local partners who were made as service providers and vendors and because of winding-up of the Company, the service providers have suffered losses of the security deposits made by them. Hence, it is prayed that the application of the applicant be allowed.

6. Learned State counsel has opposed the application and the submissions made on behalf of the applicant. It is submitted that as per the FIR, the applicant is the main accused of the case and being a franchise of the Company he has defalcated the amount of various security depositors

and had been instrumental in the commission of offence, hence, he is not entitled for bail.

7. Heard counsel for both the parties and perused the case diary.

8. On perusal of case diary and after consideration of the submissions made, it is clear that the applicant is a local resident of Korba and as such without further commenting anything on merits of the case, it appears that the applicant is entitled to be released on regular bail.

9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

10. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge