

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5682 of 2017**

- Gulam Bhai @ Rasulshah S/o Sukrat Shah, Aged About 66 Years (Wrongly Mentioned As Gulab Bhai) R/o E. W. S. 688, Near Old Shiv Mandir, Vaishali Nagar, Bhilai, Tahsil & District Durg Chhattisgarh. --- **Petitioner**

Versus

- State of Chhattisgarh through the District Magistrate Durg District Durg Chhattisgarh. --- **Respondent**

MCRC No. 5886 of 2017

- Sukhchand Deshlahre S/o Late Shri Shyam Lal Deshlahre, Aged About 45 Years R/o Village Umarpoti, Post Purai, Police Station Utai, Tahsil & District Durg, Chhattisgarh. --- **Petitioner**

Versus

- State of Chhattisgarh Through District Magistrate Durg, District Durg, Chhattisgarh. --- **Respondent**

For the applicants	:	Mr. Amiyakant Tiwari, Advocate.
For the State	:	Mr. Anupam Dubey, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri**ORDER ON BOARD****27.09.2017**

1. These are two bail applications filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 106 of 2017 registered at P.S. Supela, Distt. Durg (C.G) for the offence punishable under Sections 420, 467, 468, 471, 409, 120B read with section 34 of IPC and section 10 of the Chhattisgarh Protection of Depositors Interest Act, 2005.
2. Since both these applications are arising out of the same crime number, they are being disposed of by this common

order.

3. As per the prosecution case, a report was made by one Gaukaran Tandon that on 30.07.2017 he deposited Rs.2 lakhs in *Sahyog Bachat Sahkari Samiti* wherein it was promised that he would be paid back with 13% interest. The said amount was deposited on the allurement of applicant Sukhchand Deshlahre who was an agent. Thereafter it revealed that the said Society which was being handled by Mohd. Sabir Ali and Manish Rao Solanki. As they have been arrested and are in jail consequently, it was being managed by applicant Ghulam Bai @ Rashul and all the transactions were being done by him. However, the said amount was not returned and the deposit was made with false allurement. It is also alleged that the money was being circulated without proper sanction of RBI/SEBI.
4. Learned counsel for the applicant submits that *Sahyog Bachat Sahkari Samiti is the society* registered under the Cooperative Societies Act, 1960 and if certain amounts are not paid, then the depositors have remedy to prosecute his cause before the Registrar Cooperative Society and the limitation as well as statutory recovery process is also prescribed. He further submits that according to the prosecution, Rs.50,000/- was already returned to the complainant. However, despite that in order to avoid remedy of recovery, this report has been made wherein the applicant Sukhchand Deshlahre has been arrested for the reason that on his allurement, the amount was deposited whereas Sukhchand Deshlahre has also deposited similar amount in the Society and no offence was committed and in

respect of Gulam Bhai it is stated that he was father of the President Mohd. Sabir and no active role has been played by him. It is also submitted that initially the case was filed against applicant Ghulam Bhai @ Rasulshah with the aid of section 10 of the Chhattisgarh Protection of Depositors Interest Act and he has been discharged. He further submits that the charge sheet has been filed and no further investigation is necessary, therefore, the applicants may be enlarged on bail.

5. Per contra, learned State Counsel opposes the bail and submits that on allurement of Sukhchand, the amount was deposited.
6. Perused the case diary and the charge sheet. The document shows that the cooperative society was opened which allured different persons to deposit the money with an assurance to return the same with high rate of interest. Though it paid certain interest for a particular little point of time, but subsequently the Society became defunct and the business was transferred to one place to another. It shows that the amount so received by the Society was diverted to purchase the properties in the name of *Astha* Developers and Colonizers and eventually, the amounts could not be returned. The document shows that the President of the Society was Shabir Ali and its secretary was Manish Rao Solanki and initially the Society was operating at Rani Avanti Bai Chowk and thereafter, it was transferred to Sanskar Bihar in a room. While the money was siphoned to *Astha* Developers and Colonizers, the affairs of the same was also managed by applicant Mohd. Gulam Bhai Shah @ Rasul Bhai

Shah along-with others. The statements of witnesses Mustak Ahmad, Bhagwan Das Mourya, Prakash Banjare etc., would show that Gulam Bhai Sha was operating along-with his son, who was president of the Cooperative Society.

7. With respect to other applicants Sukhchand Deshlahre, the document shows that he was one of the depositors along-with others. The list of depositors also shows the name of Sukhchand along-with other 70 persons as depositors. Applicant Gulam Bhai was operating and dealing in sale and purchase of land and when the cooperative society could not pay the amount and the Society was pressurized, an agreement was executed on 25.12.2016 wherein Gulam Bai Shah @ Rasulshah executed an agreement to repay that amount. However, eventually it was not paid. Considering the different roles played by the applicants and taking into consideration the act committed by Sukhchand, prima facie, it appears that he has not taken any policy decision on behalf of the cooperative Society or Astha Developers to which the money was siphoned, therefore, I am inclined to extend the benefit of section 439 Cr.P.C., to applicant Sukhchand Deshlahre,
8. So far as it relates to applicant Gulam Bhai @ Rashulshah, considering the role played by him to the effect that he inter-meddled with the money which was held by the Cooperative Society and took active part in siphoning off the amounts and managing the affairs for purchase of land from the money which was collected by the Cooperative Society, I am not inclined to allow his bail application. Therefore, M.Cr.C. No. 5682/2017 is dismissed.

9. Accordingly, the bail application of Sukhchand Deshlahre is allowed and he is directed to be released on bail on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. He shall appear before the trial Court on each and every date given to him by the said Court.

Cc today.

**Sd/-
GOUTAM BHADURI
JUDGE**

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