NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on 02-04-2018

Order Delivered on 10-04-2018

MCRC No. 516 of 2018

- Pradip Badole S/o Late Damaji Badole, Aged About 50 Years, R/o Panchwati Colony, P.S. City Kotwali, Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, P.S. Moudhapara, Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Smt. Fouzia Mirza, Advocate.
For Non-applicant/State – Shri Anil S. Pandey, Govt. Advocate.
Shri Ashok Kumar Shukla, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV ORDER

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application under Section 439 of the Cr.P.C. filed by the applicant before this Court for grant of regular bail. The applicant has been arrested on 10-10-2017 in connection with Crime No.157/2017 registered at P.S. Moudhapara, Raipur, District Raipur, Chhattisgarh for the offence under Section 420, 408, 467, 468, 471, 477(A) of the IPC.

2. It is submitted on behalf of the applicant that the applicant has been falsely implicated in this case and he has been made a scapegoat by other officers of Sahara India Office at Raipur. As alleged that 36 forged cheques were used to transfer money to various accounts through RTGS by this applicant and all the cheques were issued from one account 3100304481. According to the office procedure, it was required that the cheque was to be counter signed by one Ramprakash Sahi and one Praveen Pandey along with the applicant for its encashment, who have not been held responsible for such transfer. Report of hand-writing expert has not been obtained so far, hence, the investigation is incomplete, even though the charge sheet has been filed. The

applicant is ready to abide by all the conditions to be imposed on grant of bail. Hence, it is prayed that the applicant may be released on bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that this applicant in capacity of Cashier in the Sahara India Office at Raipur was holding the responsibility of keeping the daily diary. Alleged withdrawal through 36 cheques from the account of Sahara India were not found in the day book kept by this applicant, which clearly shows his intention to cheat and fraud the Sahara India Company. In a separate offence registered as Crime No.156/2017, this applicant is complainant, who has clearly made admission that he has transferred the amount to various bank accounts claiming that he was cheated by other persons, on basis of that, FIR has been registered against other accused persons in that case. Hence, no case is made out for grant of bail to this applicant.

4. Learned counsel for the objector Sahara India area office Raipur adopted the argument submitted on behalf of the State and submits that looking to the admission made by this applicant in a complaint made by himself in Crime No.156/2017 and also on the basis that the amount misappropriated is huge to the tune of Rs.3,09,08,059/-, he is not entitled for grant of bail.

5. In reply learned counsel for the applicant further submits that no investigation has been made about the responsibility of other persons who are also directly responsible in the issuance of cheques and withdrawal of the amount through the said cheques. Hence, this applicant alone is not responsible for the whole misappropriation which is alleged to have been committed in this case.

6. Heard learned counsel for the parties and perused the case diary.

7. A complaint was made by Praveen Kumar Pandey, Area Financier of Sahara India Office Raipur in P.S. Moudhapara that the applicant was working as Cashier in that office. Some differences were found in the accounts from the

entries in the day book and the actual transactions made from the bank account No.3100304481, the account of Sahara India Office. On an enquiry, it was found that by use of 36 cheques of Sahara India Office, huge amount has been transferred to various accounts which has no connection with the business of the Sahara India. On interrogation from the applicant, he admitted his guilt before the complainant. The FIR was registered on the basis of this complaint and the investigation has been made.

8. Considered on the submissions made and contents of the case diary.

9. On perusal of the case diary, the evidence that is present on record appears to be directly against this applicant. The claim that has been made by the applicant that there are other persons also responsible for the withdrawal which have been regarded as misappropriation from the account of the Sahara India may be examined by the trial Court if an issue is raised in this respect. Further, the FIR lodged by this applicant which has been registered as Crime No.156/2017 in the same police station also appears to be admission so far it is not rebutted in evidence before the trial Court. Hence, for these reasons, at this stage, looking to the huge amount of defalcation, this applicant does not deserve to be granted regular bail.

10. Consequently, the application filed by the applicant under Section 439 of the Cr.P.C. for grant of regular bail is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Aadil