NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 6852 of 2017

1. Gaurav Dewangan S/o Shri Sunil Kumar Dewangan Aged About 32 Years R/o Sector No. 41/3-B, Bhilai, District Durg Civl And Revenue District Durg.
2. Gunjan Dewangan S/o Shri Sunil Kumar Deangan, Aged About 29 Years R/o Sector No. 41/3-B, Bhilai, District Durg Civil And Revenue District Durg.

---- Applicants

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station Bhilai Nagar, District Durg Chhattisgarh.

---- Respondent

For the Applicants	:	Shri B.P. Sharma, Shri M.L. Saket and Shri Raza Ali, Advocates.
For the Respondent/State	:	Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

ORDER

03.01.2018

Heard.

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants who have been arrested in connection with Crime No.717 of 2016, registered at Police Station – Bhilai Nagar, District – Durg, Chhattisgarh for the offence punishable under Section 420/ 34 of the Indian Penal Code and Section 10 of the Chhattisgarh Protection of Depositors Interest Act, 2005.

2. Learned counsel for the applicants submits that the applicant are in jail since 01.01.2017 and have been falsely implicated in this case. Applicant No.2 – Gunjan Dewangan is a registered stock broker as per certificate of

registration, which is part of the charge-sheet and applicant No.1 assisted him in the business of stock broking. The complainant and others were given training in e-business for promoting the share purchase in the area. The complainant and others made collections from various persons interested in purchase of shares and have deposited to the tune of Rs.29,95,800/- with the Sai Ram Ventures Private Limited, the company constituted by the applicants. The entire money was invested in the shares of various companies. Due to rise and fall of share markets, the share prices of the shares got reduced because of which the returns made to the share holders was short to some extent.

3. Complainant – Sanjay Swaroop has deposited Rs.4,98,000/- and he was returned only Rs.3,24,004/- by which it is clearly understood that the short payment was due to loss in the share business. On the basis of the complaint made by the complainant, after investigation, the applicants were charge-sheeted for the offence under Section 420 read with Section 34 of the IPC and Section 10 of the Chhattisgarh Protection of Depositors Interest Act, 2005. After filing of charge-sheet, the applicants have been discharged from the offence under Section 10 of the Chhattisgarh Protection of Depositors Interest Act, 2005. The trial is pending under Section 420/ 34 of the IPC, but till date the charges have not been framed against the applicants. As per the contents of the charge-sheet, no case is made out against the applicants for the prosecution under Section 420/ 34 of the IPC. As the applicants are doing business as registered share brokers, the cognizance of offence could have been taken only under the provisions of SEBI Act 1992 for any irregularities committed by them. The applicants are

ready to abide by all the conditions that may be imposed on them. Hence, it is prayed that the applicants be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the applicants have formed a company and made use of the complainant and others in propagating scheme to induce the innocent investors of the area and thus have collected huge amount which has not been returned to the investors. The applicants are Directors of the Sai Ram Investors Private Limited. Both the applicants are directly responsible for the offence committed. Looking to the number of persons cheated, the applicants do not deserve to be enlarged on bail.

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

6. The case against the applicants is that complainant – Sanjay Swaroop lodged FIR against the applicants that he was given training of e-jobber programme for e-trading by the applicants and was given an offer of 10% commission to get investments from various persons in the company Sai Ram Ventures. Getting induced, complainant on his own and for his family members and others made collection and deposited an amount in Sai Ram Ventures to the tune of Rs.29,95,800/-. The complainant continued to get commission for six months and then the commission was stopped. Thereafter, the complainant and other interested persons started to ask for refund from the applicants but the applicants refused to make any refund because of which the FIR was lodged.

7. Considering the submissions and the contents of the case-diary, it is not disputed that applicant No.2 – Gunjan Dewangan is a registered stock broker and the Company Sai Ram Venture is a registered company under the provisions of Companies Act. The memorandum of the association of Sai Ram Ventures Private Limited attached in case diary discloses that the business of the company is share trading. As submitted by counsel for the applicants, in the business of share market the price of shares fluctuate due to rise and fall of the share markets which result in profit and loss to the share holders. Taking into consideration the case against the applicants in totality and that the applicants are local residents and there is no difficulty in their availability during trial and the trial is likely to take sometime, this application is allowed.

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

9. It is directed that applicants shall be released on bail on each of them 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 their appearance as and when directed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi