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HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 2380 of 2018**

- Dr. Prithi Pal Singh Sethi S/o Late Shri Ram Singh Sethi Aged About 64 Years R/o 59/179, Wadi House, 101 Bhutal Dr. B. N. Road, New Hyderabad, P. S. Mahanagar Lucknow, At Present R/o 109, Ukta Co-Operative Board Society, Jogeshwari West Mumbai Maharastra, District : Mumbai, Maharashtra

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Tumgaon, Civil And Revenue District Mahasamund Chhattisgarh, District : Mahasamund, Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 3341 of 2018**

- Dr. Prithi Pal Singh Sethi S/o Late Ram Singh Sethi Aged About 64 Years R/o- 59/179, Wadi House, 101 Bhutal, Dr. B.N. Road, New Hyderabad, P.S. Mahanagar Luchnow, At Present, R/o 109, Ekta Co-Operative Housing Board Society, Jogeshwari West Mumbai (Maharashtra), District : Mumbai, Maharashtra

---- Applicant**Versus**

- State Of Chhattisgarh Through- Station House Officer, Police Station Chhawani, Bhilai, Civil And Revenue District- Durg, Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent

And

MCRC No. 3355 of 2018

- Dr. Prithvi Pal Singh Sethi S/o Late Shri Ram Singh Sethi Aged About 64 Years R/o- 59/179, Wadi House, 101 Bhutal, Dr. B.N. Road, New Hyderabad, P.S. Mahanagar Lucknow, At Present, Resident Of 109, Ukta Co-Operative Housing Board Society, Jogeshwari West Mumbai (Maharashtra), District : Mumbai, Maharashtra

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Station Khairagarh, Civil And Revenue District- Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Surendra Sing Sr. Advocate with Shri Gautam Khetrapal, Advocates.
For the Respondent/State	:	Shri Anil S. Pandey. G.A.
For the Objector	:	Shri Devershi Thakur, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10.05.2018

1. As the applicant in all the applications is same, they are being decided by this common order.

2. These are the first bail applications for grant of bail before this Court filed by the applicant. In MCRC No. 2380/2018 the applicant has been arrested in connection with Crime No. 193/2015, registered at Police Station – Tumgaon, District - Mahasamund (C.G), for the offences under Sections 420, 409, 34 of the Indian Penal Code and Sections 3, 4, 5, 6 of Prize Chits and Money Circulations Schemes (Banning) Act, 1978 and Section 10 of the Investors Protection Act, 2005. In MCRC No. 3355/2018 the applicant has been arrested in connection with Crime No.13/2017, registered at Police Station – Khairagarh, District- Rajnandgaon, C.G. for the offences under Sections 420, 34 of the Indian Penal Code and Section 10 of the Investor Protection Act, 2005 and in MCRC No.3341/2018 the applicant has been arrested in connection with Crime No.233/2016, registered at Police Station – Chhawani, Bhilai, District- Durg, for the offences under Sections 420, 409, 34 of the Indian Penal Code and Sections 3, 4, 5, 6 of Prize Chits and Money Circulations Schemes (Banning) Act. In MCRC No. 2380/2018 date of arrest is 02/02/2018, in MCRC No.3341/2018 date of arrest is 08/02/2018 and in MCRC No.3355/2018 date of arrest is 08/02/2018.
3. It is submitted by Shri Surendra Sing Sr. counsel for the applicant that no role has been played by the applicant in the said commission of offences as alleged. As stated that the applicant had been a Director of Jaig Polymers Ltd, Milani Techno Engineering Ltd, Geo-Shine Mines 2 Metals Ltd, and Togo Retail Marketing Ltd. Companies and it is false statement, as he had resigned from the post of directorship of the said companies prior to the alleged commission of offence. Apart from that, the applicant had been made accused in his personal capacity, he could have been proceeded against in capacity of director only, whereas, in these cases the company is an accused. The applicant had not been the recipient of the amount

deposited by the investors.

4. Learned Sr. Advocate has also placed reliance on the judgment of Supreme Court in case of **Sharad Kumar Sanghi Versus Sangita Rane** reported in **(2015) 12 SCC 781**, according to which, if company is not prosecuted, in that case, the prosecution of individual Director is not maintainable. It is a question to be raised and the applicant has opportunity to raise this point before the trial Court, as the maintainability of the case is not a question which shall be determined at this stage of consideration of bail. Hence, this law is not applicable at this stage. It is submitted that the guiding factor for deciding the bail application should be grant of bail as bail and not jail is the rule as held in the principles laid down by Supreme Court in the case of **Gudikanti Narasimhulu Versus Public Prosecutor, High Court of Andhra Pradesh -AIR 1978 SC 429** and **Sanjay Chandra Versus C.B.I** reported in – **(2012) 1 SCC 40**.
5. It is further submitted that the applicant happens to be renowned Kidney specialist of Uttar Pradesh and he himself is suffering from various diseases. In the case of **M.A.A.Annamalai Versus State of Karnataka** reported in **2010 8 SCC 524**, it was held by Supreme Court that the accused had ceased to be director of the company before the date of commission of cognizable offence, in that case he should not have been proceeded against. It is similarly a case in all the offences registered against this applicant, hence, it is prayed that he may be released on bail.
6. Shri Kishore Bhaduri counsel for the applicant after adopting the arguments submitted by Sr. Counsel, submits that as company is not an accused in this case, hence, the prosecution of this applicant in individual capacity is totally without any basis, as he was not the person who gave inducement to any of the investors, neither he is a person who received any deposits, hence, no

offence is made out under Section 420 of IPC. Documents filed in support of the application clearly shows the date on which, this applicant has resigned from his post as director, hence, he cannot be connected in the said commission of offences in this case, hence, it is prayed that he may be released on bail.

7. Learned counsel for the State opposes the bail application and submits that the intention of the company was to cheat the innocent investors of the area from the very beginning, as the company had no authorization to take investments and deposits either from RBI or SEBI, even then huge amount has been collected by the said company from a number of depositors of this area. He further submits that the office of the said company was closed before the date of maturity of the bond issued by the company, hence, looking to the magnitude of the offences committed by the applicant being the Directors and policy maker of the said company, he is the responsible person and he has committed the offence of cheating at huge scale, therefore, no case is made out for grant of bail.
8. Learned counsel for the Objector after adopting the arguments submitted by State counsel has submitted that the applicant and his company has floated the schemes with promise to make attractive returns and more than 3000 persons has been cheated and the tune of Rs. 2 crores has been collected within the State. It is also submitted that the applicant had been absconding since last six years, hence, he is not entitled for grant of bail.
9. Heard counsel for both the parties and perused the case diary.
10. The case in crime No. 233/2016 is this that Togo Health Welfare Institution and other concern company opened there office at R.S.S Market Power House, Bhilai, in which this applicant was director of the company in the year 2009 and the company through agents induced the various persons in

the area for making deposits in schemes promising attractive returns, but on maturity, the concerned amount was not paid to any of the depositors and office of the company was closed down, whereabouts of all the office bearers and the agents were not known, because of which, the investor Poshan Kshtriya and two others have lodged the FIR against the company and their agents.

11. The case in crime no. 193/2015 registered in PS- Tumgaon. It is alleged that in the year between 2009-2014 this applicant was a director of the Togo Retail Marketing Pvt, Ltd., and the company sold numerous bonds to the investors of the area to the tune of Rs.53 lakhs and the maturity amount was not paid to any of the investors. Hence, FIR was lodged in this case.
12. Crime No.13/2017, registered at Police Station – Khairagarh, complainant – (Cheetan Lal Sahu) filed written complaint alleging that in the year 2006 the agents of the said company gave inducement to the villagers that schemes floated by the company is beneficial and have attractive returns, because of which, the complainant and other made deposits in the company, which is collectively an amount of Rs. 16,42,000-/, but no return of maturity amount has been made and all the depositor have been cheated.
13. After perusal of the case diary, and the evidence of the witnesses in all the case, it appears that in all the cases offences have been committed by taking deposits in the fraudulent schemes of the company before the date this applicant had resigned from the directorship of the said company, there is no such document in the case diary and neither have been produced by the applicant to show, that the said companies had authority and sanction from the RBI and SEBI to take deposits from the private persons in the deposits schemes floated by the said companies. Hence, without legal authorization the said deposits taken by the companies cannot be regarded

as legal. As it appears that this applicant is involved not only in these cases, but also a number of cases have been registered against him in other States and the crime committed appears to be of huge magnitude, in an organized and systematic manner, hence, for these reasons, I am of the opinion that this applicant does not deserve to be granted bail in any of the applications.

14. Accordingly, all the applications are rejected.

Sd /-

(Rajendra Chandra Singh Samant)

Judge