HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4423 of 2017

- Raghuvir Singh Rathore S/o Gangasingh Rathore, Aged About 43 Years R/o Village Gawdi, Tehsil And Post Ujjain, District Ujjain, Madhya Pradesh., Madhya Pradesh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Ganj, Raipur, District Raipur, Chhattisgarh., Chhattisgarh

---- Respondent

For Applicant	:	Mr. Manoj Paranjpe with Mr. Prasoon Agrawal, Advocates.
For Respondent	:	Mr. V.B. Singh, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

08/03/2018

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 applicant who has been arrested in connection with Crime No.23/2016, registered at Police Station– Ganj, Raipur, District– Raipur(C.G.) for the offence punishable under Section 420 r/w 34 of the Indian Penal Code, 1860 and Section 10 of the Protection of Depositors Interest Act, 2005.

2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. It is not denied that applicant was Director of Dhanwarsha Developer Pvt. Ltd. and the complainant made investments in the said company in the year 2013 and for which a deposit certificate was issued. The investment was to

mature in the year 2019, but only for the reason that office of the company at the given address was found closed by the complainant, he has in panic and lodged false FIR against this applicant and others. It is also submitted that out of the investments collected from complainant and others, lands have been purchased in the State of Madhya Pradesh and the applicant had promised that after the sale of said lands he will repay the amount to all the investors, as promised by him. The company of the applicant is registered under the Companies Act, 1956 and thus authorized to deal in non-banking financial transactions. Hence, it is prayed that applicant may be released on regular bail.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that applicant is one of the Directors of said Dhanwarsha Developers Pvt. Ltd. The applicant being one of the Directors of the said company, is not entitled for grant of bail. It is further submitted that as many as 68 persons of the area have invested in the said company on account of inducement given by this applicant through his various agents and collection has been made to the tune of more than Rs.10,79,15049/- and subsequent to taking these deposits, the office was closed and all the Directors and staff of the company have vanished, which shows that the applicant and others had no intention to return the amount of investment of various investors. It is further submitted that the company of the applicant is not authorized by the Reserve Bank of India and Security & Exchange Board of India to take any deposit and issue bonds or certificate for the same. Hence, this applicant is not entitled for grant of bail.

4. Heard both the parties and perused the case diary.

5. According to prosecution case, complainant Bodhi Ram Sahu filed a complaint in PS-Ganj, District-Raipur, stating that the agents of Dhanwarsha Developer Pvt. Ltd. gave inducement that on making deposits in the scheme of the said company, the amount of deposit would be tripled in six years. After such allurement, the complainant and his family members sold their lands and deposited Rs.12,30,000/- in the year 2013. Later on, in the year 2016, the office of the company in the area was closed and all the concerned went in hiding because of which FIR was lodged. During preliminary inquiry, it was found that Rs.11,29,30023/- has been collected by the said company from various investors and none of the investors have been returned any amount.

6. It appears, that there may have been numerous other investors who may not have come forward to make complaint. The document shows that the schemes offered for making investment has no legal sanction. In such a situation, the complainant and others investors have no option to prosecute on the basis of deposit receipts in any Court of law. Hence, under these circumstances, it is a clear cut case of cheating. The intention of the applicant to made refund to the investors is secondary because the certificates of deposit issued have no legal value. Hence, looking to the magnitude of offence committed and the number of persons cheated in this case, I am of this opinion that this is not a fit case where applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha