

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 5908 of 2017**

1. Mohd. Sabir Ali, S/o. Rasul Shah, Aged About 38 Years,
2. Manish Solanke, S/o. Narayan Rao Solanke, Aged About 39 Years,
Both R/o. Vaishali Nagar, Bhilai, District -Durg, Chhattisgarh.

---- Applicants**Versus**

State of Chhattisgarh, Through : Station House Officer, Police Station -
Supela, Bhilai, District -Durg, Chhattisgarh.

---- Respondent

For Applicant No.2	: Mr. Amiyakant Tiwari, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate
For Objector	: Mr. Goutam Khetrapal, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****30/01/2018**

1. The bail application of the applicant No.1 – Mohd. Shabir Ali has already been dismissed for want of prosecution vide order dated 09.01.2018, therefore, by this order, the bail application in respect of the applicant No.2 – Manish Solanke is being heard and decided by this order.
2. 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 No.2, who has been arrested in connection with Crime No.1124/2016,

registered at Police Station – Supela, Bhilai, District – Durg (C.G.) for the offence punishable under Section 420, 409, 120-B, 34 of the Indian Penal Code.

3. It is submitted by the learned counsel for the applicant No.2, that he has been falsely implicated in this case. The applicant No.2 is one of the partner of Astha Developers & Colonizers, which is engaged in the business of developing and selling plots and constructed house. Complainant and the Astha Developers had a civil transaction between them, as some amount was borrowed from the complainant and an effort was made to compensate him by executing power of attorney in favour of the complainant. Only allegation against the applicant No.2 is that he could not perform his part in the agreement with the concerned, hence, the case against this applicant is of civil nature. The applicant is in jail since 02.12.2016. It is further submitted that co-accused person in this case namely Rakesh Pandey has been enlarged on bail by the Coordinate Bench of this Court vide order dated 11.05.2017, passed in M.Cr.C. No.2568/2017, therefore, it is prayed that the applicant may also be released on bail.
4. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that complainant in this case namely Akhilesh Kumar Singh and many others persons have invested the amount and entered into an agreement with Astha Developers & Colonizers, of which the applicant No.2 is one of the partner. After receiving the amount from the various depositors, the applicant No.2 and others cheated the depositors, hence, the offence is of large magnitude, therefore, the applicant No.2

is not entitled for grant of bail.

5. The counsel for the objector adopts the argument advanced by the learned counsel for the State and submits that the applicant No.2 and others had an intention to cheat the various parties to the agreement. As one power of attorney that was executed in favour of the complainant – Akhilesh Kumar Singh mentions that Astha Developers & Colonizers are owner of the land bearing Kh.No.1155, situated in Village-Kurud, District – Durg, whereas the fact is that this land does not belong to them. Hence the applicant No.2 and others have committed the offence of cheating, therefore, they are not entitled for grant of bail.
6. I have heard the learned counsel for both the parties and perused the case diary.
7. Case of the prosecution in brief is that complainant – Akhilesh Kumar Singh has filed a written complaint alleging in it that applicant and others, the partners of Astha Developers & Colonizers by deceitful acts, promised that on depositing the amount with Astha Developers and Colonizers, interest will be given @ 2.5% per month and the amount will be doubled within a short period of 3 years. After inducement, the complainant deposited Rs.10.00 lakhs, this inducement was also given by co-accused Rakesh Pandey and deposits were made in the year 2011. The cheques given by Astha Developers and Colonizers for returns were bounced when presented for payment. The complainant due to the inducement given, sold his property and deposited Rs.64.00 lakhs with Astha Developers and Colonizers, for which he received some return as interest for

sometime, but thereafter, the returns were stopped. On approaching the partners of Astha Developers, the complainant was offered to become the power of attorney holder to sale out the land belonging to Astha Developers, for which a fake power of attorney was executed in favour of the complainant. The co-accused Rakesh Pandey, who has been granted bail in this case for the reason that he had given assurance that he will pay Rs.72.00 lakhs to the complainant, because of which his application for grant of bail was allowed by the Coordinate Bench of this Court. There is no such compromise with this applicant.

8. On perusal of the case diary the facts and circumstances of the case at present, shows that firm of which, the applicant is the partner, do not have any authorization from the Reserve Bank of India or SEBI and further there is no such documents submitted by the applicant that the land for which power of attorney was executed in favour of the complainant actually belonged and owned by Astha Developers & Colonizers. Under these circumstances, this Court is of the opinion that present is not a fit case, where the applicant No.2 – Manish Solanke should be enlarged on regular bail.
9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. in respect of the applicant No.2 – Manish Solanke is dismissed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge