

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.1016 of 2017

1. Vishnu Yadav S/o Matuk Yadav, Aged About 36 Years Occupation Manager, A. V. M. Real Estate And Alide Ltd., R/o 74/9 Second Floor, Flat No. 303, Nehru Nagar, East Bhilai, P. S. Supela District Durg Chhattisgarh
2. Anil Sahu S/o Late Mansingh Sahu Aged About 45 Years Occupation Director, A. V. M. Real Estate And Alide Ltd., R/o 74/9 Second Floor, Flat No.303, Nehru Nagar, East Bhilai, P. S. Supela District Durg Chhattisgarh
3. Mahendra Sahu, S/o Shri Nakul Sahu, Aged About 37 Years Occupation Director, A. V. M. Real Estate And Alide Ltd., R/o 74/9 Second Floor, Flat No. 303, Nehru Nagar, East Bhilai, P. S. Supela District Durg Chhattisgarh
4. Rajeshwar Prasad Dwivedi S/o Late Dayashankar Dwivedi, Aged About 56 Years Occupation Director, A. V. M. Real Estate And Alide Ltd., R/o 74/9 Second Floor, Flat No. 303, Nehru Nagar, East Bhilai, P. S. Supela District Durg Chhattisgarh
5. Ashutosh Dwivedi, S/o Rajeshwar Prasad Aged About 28 Years Occupation Ex-Director, A. V. M. Real Estate And Alide Ltd., R/o 74/9 Second Floor, Flat No. 303, Nehru Nagar, East Bhilai, P. S. Supela District Durg Chhattisgarh

---- Petitioner

Versus

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

---- Respondent

Shri Awadh Tripathi, counsel for applicants.
Shri S. Majid Ali, Panel Lawyer for State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

04/01/2018

Heard.

2. The applicants have preferred this application under Section 438 of Cr.P.C., apprehending their arrest in connection with Crime No.900/2017, registered at Police Station–Supela, Bhilai, District Durg for alleged commission of offence under Sections 420, 406/34 of IPC.

3. Case of the prosecution is that the applicants are Directors/Manager of

Investment Company in the name AVM Real Estate and Alide Limited and the complainant-Mahesh Yadav and his mother had invested total amount of Rs.3,10,000/-. According to prosecution, allegation against the applicants are that the investment was taken on an assurance of certain high return, but the applicants did not pay money to the complainant-Mohan Yadav or his mother and thereby committed the offence of cheating and misappropriation of their money.

4. Learned counsel for the applicant argued that the complainant had made investment with the applicants with open eyes and when dispute arose, he has already repaid certain amount, later on, the complainant filed a case before the Consumer Forum. In that case, the applicants had filed their reply and contesting the case before the Forum, but thereafter, only in order to twist the arm of the applicants to recover the money, which is otherwise claimed in proceedings before the Consumer Forum, offence has been registered against the applicants. According to learned counsel for the applicants, no criminal overt act has been committed by the applicants.

5. On the other hand, learned State counsel submits that allegation against the applicants are that though, they had obtained investment of Rs.3,10,000/- from the complainant and his mother on an assurance of paying high returns but they failed to provide returns as assured by them.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the background of dispute that the complainant had filed a case before the Consumer Forum seeking appropriate directions for payment of money, but during the pendency of that case, now report has been lodged before the Police and offence has been registered against the applicants and considering that the applicants did not appear to be persons of criminal antecedents nor it is a case where the applicants are alleged to have opened any fictitious company and collected crores of rupees from the public, I am inclined to protect the applicants.

7. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail on each of them furnishing a personal bond for a sum of Rs.20,000/ with one local surety in the like sum to the satisfaction of the arresting officer, on the following conditions that:

(I) The applicants shall make themselves available for interrogation by the police as and when required;

(II) The applicants shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer, *and*

(III) The applicants shall cooperate with the investigation as and when they are called.

SD/-
(Manindra Mohan Shrivastava)
Judge