

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 5270 of 2017**

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

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.1113/2016, registered at Police Station – Supela, Bhilai, District – Durg (C.G.) for the offence punishable under Section 420, 467, 468, 471, 409 read with Section 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 Builder & Developers, which is engaged in the business of developing and selling plots and constructed house. Complainant and others had entered into a contract for purchasing a plot and house and it was for this purpose, the amount was deposited by them. As the amount was deposited by them and an agreement was also executed between the parties. 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. Applicant is in jail since 02.12.2016, therefore, it is prayed that the applicant may 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 Patiram and many others persons have invested the amount and entered into an agreement with Astha Builders and Developers 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. I have heard the learned counsel for both the parties and perused the case diary.
6. Case of the prosecution in brief is that Astha Builders & Developers is not a registered firm, which has entered into agreement with various persons with promise to provide plot with constructed house and have

taken deposits from them. The amount so received from the complainant and others, has been misappropriated by all the partners of the Astha Builders & Developers, hence this case.

7. Considered the submission made and the contents of the case diary. Perusal of the documents in the case diary shows that Astha Builders & Developers is registered with Registrar Firms and Societies. Agreement entered between Astha Builders & Developers and various persons interested in purchasing house and plots shows clear acknowledgement of receiving the amount from the complainant and other persons, which is a civil agreement between the applicant and other parties, who were interested to purchase the house and plots. After over all consideration of all the facts and circumstances of this case, this Court is of the opinion that present is a fit case, in which, the applicant No.2 – Manish Solanke should be enlarged on regular bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. in respect of the applicant No.2 – Manish Solanke is allowed.
9. It is directed that applicant No.2 – Manish Solanke shall be released on bail on his 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 his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge