

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 6168 of 2017**

Mohd. Shahnawaz Hussain, S/o. Mohd. Aslam Hssain, Aged About 27 Years,
R/o. Near Gousiya Mazjid, Camp-1, Bhilai, P.S. Chawni, Tahsil and District
Durg, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station –
Supela, Civil and Revenue District -Durg, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Mahendra Dubey, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate
For Objector	: Mr. N.K. Mehta, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**30/01/2018**

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.539/2016, registered at Police Station – Supela, District – Durg (C.G.) for the offence punishable under Section 420, 409, 34 of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicant, that he has been falsely implicated in this case. The transaction between the applicant and the complainant in this case is civil transaction and merely a land deal. Applicant had submitted a complaint to the

Inspector General of Police, Durg giving details of the amount that has been refunded to the wife and son of the complainant – Rakesh Pandey, in which it is mentioned that a sum of Rs.80.00 lakhs was taken on loan from Mrs. Urmila Pandey, the wife of the complainant for which preferential share of the same amount was issued in favour of Mrs. Urmila Pandey, under the provisions of Section 55 and Rule 9 of Indian Companies Act. It is submitted that pursuant to the demand made by the complainant, the sum has been refunded to the wife and son of the complainant on various dates through bank transaction. Copy of the accounts details are submitted for perusal. It is prayed that the criminal case against this applicant is misconceived, hence, it is prayed that the applicant may be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that a clear case of fraud and criminal breach of trust is made out on the basis of the evidence on record of the prosecution case, hence, no case is made out in favour of the applicant for grant of regular bail.
4. The counsel for the objector adopts the argument advanced by the learned counsel for the State and submits that the applicant in this case has made false statement, as the complainant has not received any refund from the applicant and the documents submitted are not the part of the charge-sheet, hence, that may be made a basis for the defence, at present, these documents can not be referred to. It is also submitted that the application of co-accused in this case has been rejected by the Coordinate Bench of this Court vide order dated 21.03.2017 in M.Cr.C. No.450/2017 and the applicant stands on a

similar footing, hence, he 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 complainant – Rakesh Pandey filed a complaint in Police Station – Supela, District – Durg alleging in it that applicant and other co-accused persons Idrish Ahmad are partners of M/s. Sanskardhani Infra Housing Limited. On the inducement given by the applicant and others, complainant had provided a sum of Rs.80.00 lakhs to the applicant and another on promise made by the applicant and other that same will be returned in double. In return, a bond worth of Rs.80.00 lakhs issued in favour of son of the complainant, but when applicant asked for the refund of the amount landed, Rs.20.00 lakhs, were returned but a sum of Rs.60.00 lakhs is still outstanding, which has not been returned to the complainant.
7. Considered the submission made and the contents of the case diary. There is evidence in the case diary that on the inducement given by the applicant and others, complainant deposited Rs.80.00 lakhs with the firm of the applicant. The said refund of amount as stated in the argument on behalf of the applicant is not a part of the case diary. There is no such documents on record to show that applicant has any recognition or authorization from RBI or SEBI for issuance of any share certificate apart from that similarly placed co-accused has been denied bail by the Coordinate Bench of this Court, hence for this reason, this Court is of the opinion that present is not a fit case, where the applicant should be enlarged on regular bail.

8. Accordingly, the bail application filed under Section 439 of the Cr.P.C.
is dismissed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram