NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 08/03/2018

Order Delivered on : 13/03/2018

M.Cr.C. No. 7918 of 2017

Khustar Parvez S/o Late Usman Gani Aged About 37 Years R/o 738-A, Lane No. 22 Tulakabad, Delhi.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Moudhapara District Raipur Chhattisgarh.

---- Respondent

And

M.Cr.C. No. 257 of 2018

Firoz Ahmad S/o Late Aas Mohammad Aged About 37 Years R/o Saorabh Vihar Jaitpur District Badarpur Delhi.

---- Applicant

Vs

State Of Chhattisgarh Through Police Station Moudha Para District Raipur Chhattisgarh.

---- Respondent

For the Applicants	:	Ms. Sharmila Singhai and Shri Sanjay Agrawal, Advocates.
For the Respondent/State	:	Shri Anupam Dubey, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV ORDER

1. Both these applications are decided by a common order as they arise from the similar matter. These are the first bail applications of the applicants filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants, who have been arrested in connection with Crime No.156 of 2017, registered at Police Station Moudha Para, District –

Raipur, Chhattisgarh for the offence punishable under Sections 420, 467, 468, 471 and 473/ 120-B of the Indian Penal Code and Section 66D of the Income-Tax Act.

2. Learned counsel for the applicants submit that the applicants in both the cases are in jail since 7.3.2017 and they have been falsely implicated in these cases. It is submitted that no offence has been committed by these applicants and there is no evidence on record to show that the applicants are recipients of any of the amount deposited by the complainant. Neither any account was opened in the name of these applicants, nor any deposit was made in their account, hence, no connection is established with the fake bank accounts and email ID that have been used for the offence of cheating. It is further submitted that the complainant in this case - Pradeep Badole is himself an accused in Crime No. 157 of 2017 registered in P.S. Moudha Para, Raipur for the offence of embezzlement of an amount of Rs.3,35,86,460/-.

3. Learned State counsel opposes the bail application and submits that the applicants are part of a huge racket in fraud and there is evidence in the charge-sheet filed against them, that they had been actively engaged in the said offence committed because of which, the complainant was cheated of a huge amount to the tune of Rs.3,09,08,059/-. Hence, for these reasons, both the applicants are not entitled for grant of regular bail.

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

5. Complainant – Pradeep Badole in this case has filed a written compliant stating that on 17.1.2017, he received one email from an American Soldier, namely, Mevis Jack, in which it was stated that he has to receive a box containing money and other collections of humanity services which he is unable to collect for technical reasons and as such, he pleaded that for the purpose of humanity, the complainant should help him. The complainant went to Delhi Airport on 28.4.2017 and paid Rs.24,750/- in one account number supplied by the agent towards payment of custom duty and obtained a receipt for the same. Thereafter, on the inducement given by the agent Michel Robert, he deposited the amount in various bank accounts according to the details provided by the agent, on various pretexts regarding some donations, delivery charges etc. Thus, in total he made a deposit of Rs.3,09,08,059/-. After lodging of FIR, memorandum of co-accused - Vinod Pasvan was recorded, in which he has stated that both the applicants have used fake ID papers for opening bank accounts and for withdrawing the amount deposited in the fake bank accounts for which both the applicants used to receive commission. Similar statement has been given by both the applicants as well and such statements have also been given by the co-accused persons - Fidelis Harris and Martin Yobanna. Seizure of incriminating articles have been made from both these applicants relating to the bank account, fake ID papers etc., which have been used for commission of offence as alleged.

6. Considered the entire material present in the case-diary, the facts that though the memorandum statement given by the accused persons is not legally admissible but even then, there is evidence on the basis of the recovery made from these applicants which makes out a *prima facie* case against them. Looking to the huge magnitude of the offence and that the huge racket operated for committing such offence at national and international level, in which both these applicants had taken a part according to the evidence present in the case, I am of this view that the applicants in both the cases does not deserve to be enlarged on bail.

7. Accordingly, the bail applications filed by the applicants in both the cases under Section 439 of the Cr.P.C. are rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi