

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 317 of 2019

- Mastu Ram Sahu S/o Maniram Sahu, Aged About 36 Years, R/o Village Nayakbandha Tahsil and Police Station Abhanpur District Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through The Police Station Abhanpur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Pravin Kumar Tulsyan, Advocate.

For Non-applicant/State – Shri H.S. Ahluwalia, Deputy Advocate General.

Shri Aditya Chopra, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

01-04-2019

1. Apprehending arrest in connection with Crime No.30/2019, registered at Police Station – Abhanpur District- Raipur, Chhattisgarh for offence punishable under Section 420 of the IPC, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against this applicant. The applicant was simply working as an agent of Sai Prakash Organic Food Limited and he never had knowledge that the company was going to close down and cheat the investors. He believing in the schemes of the company he had promoted the same and invited the investments from the investors. The complainant in this case has also made investment and the amount so invested has been directly deposited in the company's account, from which this applicant has not received any benefit. When the company failed, this applicant also entered into an agreement with the complaint to make refund of the amount invested by him, for which the complainant can sue him in the civil Court. Therefore, it is prayed that this applicant may be benefited with grant of

anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that the company has failed in the year 2013 and the complainant had knowledge that the company is going to fail, even then he has induced the complainant to make investments. Therefore, it is a case of commission of offence of cheating. Therefore, the application may be rejected.

4. Learned counsel for the objector submits that on the assurance given and promise made by the applicant, the complainant had made investments and since the company has failed and its offices were closed the applicant has been continuously promising to pay the amount lost by the complainant, but, he has not paid a single penny so far, therefore, his application may be rejected.

5. Heard learned counsel for the parties and perused the case diary.

6. According to the FIR lodged, the applicant presented himself as senior agent of Sai Prakash Organic Food Ltd. in the year 2011 and also admitted the complainant as an agent. The complainant made investment of Rs.6,00,000/- through his father and he also invited investments from other persons, therefore, a total investment of Rs.9,25,000/- was taken and deposited in the company, which had been lost because the company has closed its offices and whereabouts of the directors and office bearers of the company are not known. Hence, allegation has been made against this applicant.

7. On perusal of the case diary, it appears that in the year 2016 the applicant has entered into an agreement with the complainant to make refund of all the amount invested by him and the persons through him, which is simply an agreement of borrowing money which also acknowledges the earlier investments made by the concerned, for which the complainant has entitlement to recover the same by filing civil suit. Hence, looking to nature of the case and the promise made by the applicant which has been agreed by him, I feel

inclined to allow this application.

8. Accordingly, the anticipatory bail application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge