

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 329 of 2019

1. Rajeshwar Prasad Dwivedi, S/o Late Dayashankar Dwivedi, aged about 58 Years, R/o Village Post-Tedesara, Tahsil & District-Rajnandgaon, Chhattisgarh.
2. Anil Kumar Sahu, S/o Late Man Singh Sahu, aged About 47 Years R/o Village, Post-Tedesara, Tahsil & District - Rajnandgaon Chhattisgarh., District : Rajnandgaon, Chhattisgarh
3. Mahendra Sahu, S/o Shri Nakul Ram Sahu, aged about 40 Years, R/o Village+Post- Tedesara, Tahsil & District Rajnandgaon Chhattisgarh.,

---- Applicants

Versus

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

---- Respondent

For Applicants : Mr. Awadh Tripathi, Advocate.

For Respondent : Mr. Arun Kumar Shukla, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

08/03/2019

1. The applicants have preferred this bail application under Section 438 of Cr.P.C. apprehending their arrest in connection with Crime No.181/2019 registered at Police Station-Supela Bhilai, District – Durg (C.G.), for the offence punishable under Section 420 of Indian Penal Code.
2. Learned counsel for applicants submits that applicants are innocent and have been falsely implicated in this case. The company of the

applicants did not have any intention to cheat the depositors. However after floating the schemes inviting deposits, the applicants came to know that approval of SEBI & RBI is required to accept deposits and therefore they have closed the schemes and started refunding amount to the depositors and so far they have refunded money to more than three hundred depositors in this respect. The applicants have also published advertisement through notices in various newspapers and copies of which are also attached with this application including a list showing refunds made through bank transfer and other modes. As per directions of SEBI, the applicants have been permitted to sell out their assets for making refund to the investors. Report submitted by the police to the Inspector General of Police, Durg after conducting an inquiry in this regard clearly shows the intention of the applicants to refund all the dues. Hence, it is prayed that all the applicants may be enlarged on anticipatory bail.

3. Learned State Counsel opposes the bail application and the submissions made in this respect. It is submitted that the submission made by the applicants is baseless as none of the witnesses has stated in their statement about the refund of any amount, therefore, it is prayed that the prayer made by the applicants is liable to be rejected.
4. Heard both the parties and perused the case diary.
5. According to FIR lodged, the applicants are Directors of the Chit Fund Company styled as "AVM Real Estate & Allied Limited". It is alleged, that the applicants through their agents gave inducement to the innocent investors for making deposits in their schemes by promising attractive returns but after making deposits and on the maturity of the

same, none of the deposits has been refunded, therefore, the investors filed complaint against the applicants on the basis of which FIR has been lodged.

6. Considered the entire material present in the case diary. Inquiry report of the police is also part of the case diary, in which, it has been stated that in accordance with directions of SEBI, the applicants have started making funds for refunding the deposits to the concerned investors. Therefore, on due consideration, I feel inclined to allow this application with a conditions.
7. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on their executing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Investigating Officer. This order shall remain in force for a period of six months only from today. The applicants shall also abide by the following conditions :
 - (i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;
 - (ii) that 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/her from disclosing such facts to the Court or to any police officer;
 - (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
- (v) order of bail shall remain effective for a period of 6 months from today, during which period the applicants shall have to make all efforts in making refund to the remaining investors of various schemes of the company and after doing so, the applicants may file application for making this order absolute.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha