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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1712 of 2019

- Dr. Prithi Pal Singh Sethi S/o Late Shri Ram Singh Sethi, Aged About 64 Years R/o 59/179, Wadi House, 101, Bhutal Dr. B.N. Road, New Hyderabad, Police Station Mahanagar, Lucknow, At Present R/o 109, Ukta Co - Operative Board Society, Jogeshwari West Mumbai Maharashtra, District Mumbai (Maharashtra).

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station - Tumgaon, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Respondent

MCRC No. 1714 of 2019

- Dr. Prithi Pal Singh Sethi S/o Late Shri Ram Singh Aged About 64 Years R/o 59/179, Wadi House, 101, Bhutal Dr. B. N. Road, New Hyderabad, P. S. Mahanagar, Lucknow, At Present R/o 109, Ukta Co-Operative Board Society, Jogeshwari West Mumbai Maharastra, District Mumbai Maharastra.

---- Applicant

Versus

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

---- Respondent

MCRC No. 1849 of 2019

- Dr. Prithi Pal Singh Sethi S/o Late Shri Ram Singh Sethi, Aged About 64 Years R/o 59/179, Wadi House, 101, Bhutal Dr. B.N. Road, New Hyderabad, Police Station - Mahanagar, Lucknow, At Present Resident Of 109, Ukta Co - Operative Board Society, Jogeshwari West Mumbai Maharashtra, District Mumbai (Maharashtra).

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station - Khairagarh, District Rajnandgaon Chhattisgarh.

---- Respondent

For Applicant	: Mr. Manoj Paranjpe with Mr. Vikash Pradhan, Advocate
For State/respondent	: Mr. H.S. Ahluwalia, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****17/05/2019**

1. All the above bail applications are heard and decided together by this common order as they arise out of similar type of offence committed by the applicant.
2. These are 3rd bail applications of this applicant for grant of regular bail. His first applications bearing MCRC No.2380/2018, MCRC No.3341/2018 & MCRC No.3355/2018 were rejected on merits by this Court vide order dated 10.5.2018. Second bail application bearing MCRC Nos.10046/2018, 10047/2018 & 175/2019 were again rejected

on 6.2.2019 by this Court.

3. These bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who is in custody in connection with following crime numbers:-

(I) Crime No.193/2015 in MCRC No.1712/2019 registered at Police Station-Tumgaon, District – Mahasamund(C.G.), for the offence punishable under Sections 420, 409, 34 of the Indian Penal Code, Section 3, 4, 5, & 6 of Prize Chits and Money Circulation Scheme (Banning Act, 1978) and Section 10 of Investors Protection Act, 2005.

(ii) Crime No.233//2016 in MCRC No.1714/2019 registered at Police Station-Chhawani, Bhilai, District – Durg(C.G.), for the offence punishable under Sections 420, 409, 34 of the Indian Penal Code, Section 3, 4, 5, & 6 of Prize Chits and Money Circulation Scheme(Banning Act, 1978).

(iii) Crime No.13/2017 in MCRC No.1849/2019 registered at Police Station-Khairagarh, District – Rajnandgaon(C.G.), for the offence punishable under Sections 420, 34 of the Indian Penal Code and Section 10 of Investors Protection Act, 2005.

4. It is submitted by the learned counsel for applicant that applicant has been falsely implicated in this case. He is in jail since 8.2.2018 and till date there is no effective progress in trial pending against him. Applicant had sought liberty of this Court on 1.4.2019 to deposit before the trial Court concerned amount of defalcation involved in all three cases, so that the same may be refunded to complainant/claimants.

Applicant has bonafidely deposited a sum of Rs.5 lakhs in the Court at Rajnandgaon where case with respect to Crime No.13/2017 registered at Police-station, Khairagarh, District Rajnandgaon is pending. Likewise, he has also made a deposit of Rs.10 lakhs in the concerned Court at Durg which is based on Crime No.23/2016 registered at P.S.- Chhawani, District-Durg. Apart from this, he had made other efforts to compensate other investors on his own. Assets of company of applicant have been seized by SEBI for the purposes of security and refund to the investors of company. It is submitted that the principle laid down by Supreme Court in ***Gurbaksh Singh Sibbia Etc vs State of Punjab*** reported in ***AIR 1980 SC 1632*** has to prevail as it is the basic law, that it is a right of accused for speedy trial otherwise it amounts to violation of his right under Article 21 of the Constitution of India. It is submitted that in case the applicant is granted bail, he will make sincere efforts to make good the loss to the investors. Hence, it is prayed that as the trial against applicant will certainly take more time in getting concluded and applicant is languishing in jail since 8.2.2018, therefore, his applications be allowed in all three cases.

Reliance has been placed on the judgment of Supreme Court in *Neeru Yadav vs State of Uttar Pradesh* and another reported in (2014) 16 SCC 508, *Dataram Singh vs State of Uttar Pradesh* and another reported in (2018) 3 SCC 22, *B.N. Srivastava vs CBI, EOU-IV, New Delhi* reported in 2017 Law Suit (SC) 488 & *Sharad T. Kabra vs Union of India* reported in (2018) 14 SCC 493.

5. On the other hand, learned counsel for the State opposes bail applications and submissions made in this respect. It is submitted that

on 6.2.2019, while rejecting second bail application for grant of regular bail filed by applicant in all three cases this Court had granted liberty to renew prayer after completion of one year. However, the applicants has filed these applications before expiry of said period of one year and as such, the applications are premature. It is not denied that some of the investors have been refunded their investment, but still there are many aggrieved persons whose investment had not been refunded. Applicant resides in Maharashtra and he had been absconding for the period of almost 6 years before he was apprehended and detained in jail. It is submitted that in cases of huge fraud the discretion for grant of bail should not be exercised, hence, his applications are liable to be rejected.

6. In reply, it is submitted that it is not the case of huge fraud against the applicant in all three cases. Investigation is done erroneously calculated the maturity amount of deposits made, whereas the applicant has made serious efforts to make refund to the investors. Therefore, his applications be allowed.
7. I have heard the learned counsel for both the parties and perused the case diary.
8. For the reason that the applications for regular bail have been rejected, therefore, there is no need to consider these applications on merits. So far as the efforts made by applicant for making refund to the investigation is concerned, this would not exonerate him from the offences for which he is being tried in all three cases. Looking to number of cases and number of aggrieved persons, who are alleged to have been cheated by him, and also for the reason that no such

sufficient time has passed to conclude, that the trial is getting delayed and further considering that it is a case of huge economic crime, therefore, there is all likelihood that the trial will take some time before its conclusion, it cannot be said at this moment that the applicant has spent reasonable time in jail.

9. Considering all the submissions made, facts and circumstances of case relevant for consideration of 3rd bail applications, I am not inclined to allow these three bail applications.
10. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. are rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha