HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 792 of 2019

1. Yashwant Sonkar, S/o Late Shri Jeewan Lal Sonkar, Aged About 43 Years, R/o Sonu Niwas, Durga Chauk Koliyari, Post & Tahsil Dhamtari, District-Dhamtari Chhattisgarh.

2. Kuleshwar Sonkar, S/o Late Shri Jeewan Lal Sonkar Aged About 40 Years R/o Sonu Niwas, Durga Chauk Koliyari, Post & Tahsil Dhamtari, District-Dhamtari, Chhattisgarh.

3. Mayank Sonkar, S/o Shri R.D. Sonkar, Aged About 33 Years, R/o Rohanipuram Goal Chauk Raipur, Tahsil & District-Raipur, Chhattisgarh.

4. Hemant Dewangan, S/o Shri Radheshyam Dewangan, Aged About 38 Years, R/o Subhash Nagar Dhamtari, Tahsil & District-Dhamtari, Chhattisgarh.

5. Chitrasen Sahu, S/o Shri Vijay Sahu, Aged About 35 Years, R/o Koliyari, Police-Station-Arjuni, Tahsil & District-Dhamtari, Chhattisgarh.

---- Applicants

Versus

1. State of Chhattisgarh Through Police Station City Kotwali, Dhamtari, District-Dhamtari, Chhattisgarh.

---- Respondent

For Applicants : Mr. Akath Kumar Yadav, Advocates.
For Respondent : Mr. Ghanshyam Patel, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/09/2019

1. The applicants have preferred this bail application under Section 438 of Cr.P.C. apprehending their arrest in connection with Crime No.126/2019 registered at Police Station- City Kotwali, Dhamtari, District-Dhamtari(C.G.), for the offence punishable under Sections 420, 34 of the Indian Penal Code; Section 4, 5 & 6 of the Prize Chits and Money Circulation Schemes(Banning) Act, 1978 and Section 10 of the Chhattisgarh Protection of Depositors Interest Act, 2005.
2. Learned counsel for applicant submits that applicants are innocent and have been falsely implicated in this case. The company of applicants namely 'Mahanadi Advisory Services Pvt. Ltd.' is a registered company. The complainant himself was an employee of this company, who was hire as 'Consultant' on contract. The complainant was served with a legal notice by the company for making adverse publicity of the company. Allegation made in FIR that after taking deposits in various schemes, the company has closed its offices in the year 2016 is baseless because the applicant company has made refunds to the depositors till 2019 regarding which documents are also filed along with the application, and at present only 25 lakhs is remaining to be paid to the investors and the applicants are ready to pay, which may be made a condition for grant of anticipatory bail. It is further submitted that it is a case in which there is no evidence to make out offences under Section 10 Chhattisgarh Protection of Depositors Act & Section 6 of Prize Chits Money Circulation (Banning) Act, hence, it is prayed that applicant 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 as the applicants

are held responsible for commission of offence under Section 10 of the Chhattisgarh Protection of Depositors Act, therefore, this application under Section 438 of CrPC is barred under Section 15 of the said Act. The company of which the applicants are Directors and office bearers has clearly committed fraud as the object of the company does not include any financial scheme. Further, the company was not licensed by the SEBI or the RBI. The magnitude of offence is huge as numerous investors have been cheated, therefore, the applicants are not entitled for grant of anticipatory bail.

4. In reply, it is submitted that this Court has granted bail to similarly placed co-accused persons in other cases. Further, all the schemes that were floated by the company had permission of the Collector of District concerned. Hence, it is prayed that applicants be enlarged on anticipatory bail.

5. Heard both the parties and perused the case diary.

6. FIR has been lodged by complainant Mordhwaj Kumbhkar that the Directors, Managers and other office bearers of Mahanadi Advisory Services Ltd floated fraudulent schemes between the year 2010-16 giving inducement of attractive returns to the depositors. The complainant and his associates made deposit of Rs.1,46,41,897/- in the company. When the deposits were at the verge of maturity, the company had closed all its offices in the locality concerned and all the persons concerned went in hiding. It is also informed that, apart from the complainant, numerous agents working for the company had collected and given deposits to the company which runs into crores of rupees.

7. A plain reading of FIR and other evidence present in case diary reveals that all the applicants are Directors & other employees of the company, therefore, the allegation against them is clearly covered under Section 10 of the Chhattisgarh Protection of Depositors Act, hence, this application cannot be entertained looking to the bar under Section 15 of the Chhattisgarh Protection of Depositors Act. Hence, I am not inclined to entertain this anticipatory bail of the applicants.

8. Accordingly, the anticipatory bail application is dismissed as not maintainable.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha