HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1212 of 2019

- Pijush Majumdar, S/o Prashant Majumdar, Aged About 34 Years, R/o 5/A, Anushtha Residency Junwani, Khamhriya Road, Bilai, Police Chowki- Jevra, Sirsa, Tahsil & District- Durg, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station- Tumgaon, Civil & Revenue District- Mahasamund, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Goutam Khetrapal with Mr. Purnendra Khichariya, Advocates.
For Respondent	:	Mr. Ghanshyam Patel, Govt. Advocate.

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

26/09/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.193/2015 registered at Police Station-Tumgaon, Civil & Revenue District – Mahasamund(C.G.), for the offence punishable under Sections 420, 409, 34 of the Indian Penal Code and Sections 3, 4, 5, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978 and Section 10 of the Chhattisgarh Nikshepiko Ke Hito ka Sanrakshan Adhiniyam, 2005.

2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case only for the reason that he is the son of main accused Prashant Majumdar. This applicant has not given any inducement to any of the depositors nor collected any money. There is no such evidence collected that this applicant was working for the organization 'Togo Health and Public Welfare Institution' and 'Jeo Science Mines and Metals Ltd'. There is practically no evidence to show that this applicant has committed any offence defined under Section 10 of Chhattisgarh Protection of Interest of Depositors Act, 2006 (for short 'the Act').

Relying on the judgment of Supreme Court in the matter of Siddharam Satlingappa Mhetre vs State of Maharashtra and others reported in (2011) 1 SCC 694. It is submitted that applicant has right to liberty, which has been defined in this judgment. Reliance has also been placed in the judgment of Supreme Court in the matter of Dr. Subhash Kashinath Mahajan vs State of Maharashtra and another reported in (2018) 6 SCC 454 in which it was held that the bar under the statute for grant of anticipatory bail is not absolute and if there is evidence to show that no *prima facie* case is made out or where on judicial scrutiny the complaint shows that the complaint is prima facie mala fide, in such cases bail can be granted. Reliance has also been placed on the orders of this Court passed in MCRCA No.39 of 2018 (Bhagwat Ram Dhiwar vs State of Chhattisgarh) & MCRCA No.1521 of 2018 (Prakash Das Mangal Murti vs State of Chhattisgarh) and it is submitted that in similar cases this Court has granted anticipatory bail to the persons concerned. 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 this applicant was working as Manager in Raipur Branch of Togo Retail Marketing Pvt. Ltd. and he was engaged in enrolling agents and issuing bonds against the deposits made by investors in the schemes of the company and therefore, offence under Section 10 of the Act is clearly made out against him, hence, application under Section 438 of CrPC is barred under Section 15 of the said Act. Therefore, this application is not maintainable. There is evidence present in the charge-sheet against this applicant regarding his position as Branch Manager of the fraudulent company, therefore, he is not entitled for grant of bail.

4. In reply, it is submitted by counsel for applicant that the only evidence present is the statement given by co-accused which can be used against this applicant in the trial. Apart from that there is no other evidence of any witness, hence, the applicant is entitled for grant of anticipatory bail.

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

6. Complainant Jagdish Sahu has lodged FIR that he was induced by co-accused Ganesh Sahu for making deposit in the fraudulent scheme of Togo Retail Marketing Company Ltd. Getting induced, he made deposit of Rs.50,000/- against which bond paper was issued to him. The deposit matured on 17.12.2015 but despite approaching the agent Ganesh Sahu, the complainant has not been paid any maturity amount. During investigation, it has been found that number of depositors have not been given maturity amount and the Director of the company is Prashant Majumdar with whom this applicant was also actively engaged in the promotion of business as Area Branch

Manager. Hence, this case.

7. There is evidence of the witnesses recorded from other sources in which they have stated that this applicant was working as Branch Manager of the Company. Although charge-sheet has been filed but it is mentioned that arrest of this applicant is pending and the additional investigation is also pending for the same, therefore, it cannot be held that this applicant has no connection at all with the said fraudulent company. There is sufficient material to show that he had been engaged in promotion of the business of the company, which is covered under Section 10 of the Act. Therefore, any conclusion cannot be drawn at this stage and the applicant cannot get benefit of the decision rendered in the case of Dr. Subhash Kashinath Mahajan(supra). The application is barred under Section 15 of the Act. Other persons who have been granted bail by this Court in the MCRCA mentioned above were not working as Director or Employee of the company, on the contrary they were simply agents. Hence, grant of bail to them cannot be made a ground in this case.

8. Accordingly, the anticipatory bail application is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha