**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No.6319 of 2018**

- Vijay Kumar Jain S/o Bhanwar Lal Jain Aged About 44 Years R/o- Mig-728, Padmanabhpur, District- Durg, Chhattisgarh.

**---- Petitioner**

**Versus**

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

**---- Respondent**

| | | |
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| For Applicant | : | Shri Anup Majumdar, Advocate |
| For Respondent/State | : | Shri Anand Verma, Dy.GA |
| For Objector | : | Shri R. Pradhan with Shri Shikhar Sharma, Advocates |

**Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**05/04/2019**

Heard.

1. The applicant has moved this application under Section 439 of the Cr.P.C. for grant of regular bail in connection with Crime No.494/2009 registered at Police Station Durg, District Durg for the offence punishable under Section 420, 468 of IPC.

2. Case of the prosecution is that the applicant collected money from about 24 investors saying that the amount would be invested in online trading and also collected amount under various schemes for repayment with profit. According to the prosecution, under the trading head and scheme head, the applicant collected Rs.34,18,574/- and Rs.57,30,000/-, total amounting to Rs.91,48,574/- . However, the investors were not given the profits, which were assured by way of return before taking money for the purpose of investment.

3. Learned counsel for the applicant would argue that the applicant had taken money from individual investors, who voluntarily agreed to invest the

money in online trading business under various schemes of return, knowing fully well the market risks. He would further submits that these transactions were duly acknowledged by the applicant by issuing receipts to each of the investors. He would further submit that the investors continued to make investment for a long period and its only when later on, the return was not to their satisfaction, they came out with the allegations of cheating against the applicant. He would argue that the applicant is in jail since last two years and at present, the prosecution is proceedings with snails pace and only charges have been framed meaning thereby that the trial is likely to take time. He would lastly submit that as charge sheet has already been filed, at this stage, the applicant may be granted bail.

4. On the other hand, learned counsel for the State as also learned counsel for the Objector opposed the bail application by submitting that the applicant cheated the investors by giving false representation that he is the Sub Broker/Broker of MCX Online Trading Company and received huge amount. He has submitted that after having received the aforesaid amount from the individual investors, the applicant did not return the profits as assured by him to the individual investors, which led to filing of report against the applicant. It is also submitted that after the matter was reported to the police, the applicant absconded and he was arrested only after 7 & 1/2 years. It is lastly submitted that if bail is granted to the applicant, he is again likely to abscond, which will hamper trial of the case.

5. Having heard learned counsel for the parties, I have perused the case diary and the charge sheet.

6. Upon prima facie considerations of the material on record, it is found that the applicant had collected approximately 91 lakhs from number of investors both under online trading as well as under various scheme of higher returns. This amount appears to have received by the applicant not for one time, but from time to time over a long period from different investors. It is also found that in the communication dated 02-03-2017 of India Infoline Limited, it has been disclosed that the applicant is not Sub Broker to the Company, but he is having Trading and Demat account, which were opened on 06-12-2005. Along with the said communication, the ledger statements and transaction statements have already been annexed, which show that the applicant was engaged in trading

business by depositing and receiving amount from time to time over a long period. Further, it is also found that whatever amount the applicant has received from the investors, he had issuing acknowledgment of receipt of those amount in favour of the investors. This Court also found that the applicant had remained absconded for a long time, however, now he is in jail for last two years and there is no material progress in the trial and it is stated that only charges have been framed, therefore, trial is not likely to be concluded early.

7. Therefore, in these circumstances, when the applicant has remained in jail for the last two years, the application is allowed. To ensure applicant's appearance before the trial Court, it is necessary to impose strict conditions for his appearance. It is directed that on applicant's furnishing a personal bond of Rs.5,00,000/- (Five lakhs) along with two sureties each of Rs.4 Lakhs, the applicant shall be released on bail. It is further directed that the applicant shall appear before the trial Court regularly on each and every date of hearing, unless exempted. The passport, if any, shall also be surrendered at the time of furnishing bail bonds.

Certified copy as per rules.

SD/-
( **Manindra Mohan Shrivastava)**
**J U D G E**

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