

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on: 16/05/2019

Order delivered on: 17/06/2019

MCRC No. 6484 of 2018

- Mohd. Junaid, S/o Mohd. Umar Memon, Aged About 33 Years, R/o- 171-A, Vaishali Nagar, Cement Road, Nagpur, P.S. Panchpaoli, Nagpur, Maharastra.

---- Applicant

Versus

- State of Chhattisgarh Through-P.S.O. Basantpur, Rajnandgaon, Chhattisgarh.

---- Respondent

&

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---- Applicant

Versus

- State of Chhattisgarh Through- Police Station Officer, Kotwali, Kanker, District- North Bastar, Chhattisgarh.

---- Respondent

For Applicant :Mr. Sachin R. Gupta & Mr. Sunil Verma , Advocates.

For State/respondent: Mr. H.S. Ahluwalia, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV Order

17/06/2019

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 application bearing MCRC No.1470/2018, was rejected by this Court vide order dated 6.4.2018. Second bail application bearing MCRC No.3679/2018, was rejected on 18.5.2018 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.231/2016 in MCRC No.6484/2018 registered at Police Station-Basantpur, District – Rajnandgaon(C.G.), for the offence punishable under Sections 420, 406 of the Indian Penal Code, Section 6(5) & 10 of the Chhattisgarh Protection of Depositors Interest Act, 2005.

(ii) Crime No.124//2017 in MCRC No.6486/2018 registered at Police Station-Kotwali, Kanker, District–North Bastar(C.G.), for the offence punishable under Sections 420 r/w 34 of the Indian Penal Code, Section 3 & 4 of Prize Chits and Money Circulation Scheme(Banning Act, 1978).

4. It is submitted by the learned counsel for applicant that applicant has been falsely implicated in this case. He is in jail since 14.7.2017. The main ground raised in this application is this that applicant is languishing in jail without there being any fault on his part and the trial is getting prolonged after framing of charges as till date evidence of only 10 witnesses have been recorded out of total 36 witnesses. The applicant has compromised with some of the aggrieved persons and he has all the intention to refund the amount invested by the investors. In case, bail is granted to the applicant, he is ready to give an undertaking that he will arrange funds by selling out his property and make refund to the investors within three months. The applicant is also suffering from a disease related to brain i.e. Pictionary Tumor, which has been operated on 24.7.2018. The applicant has no criminal antecedent. The applicant is also ready and willing to abide by all the conditions which may be imposed by this Court including deposit of his passport. Hence, it is prayed that this repeat bail applications be allowed in both the cases.
5. On the other hand, learned counsel for the State opposes bail applications and submissions made in this respect. It is submitted that by simply making refund to the investors, the applicant does not get exonerated from the offence that he has committed. The Court below has permitted applicant to authorize some of his staff members for making financial arrangements to make refunds to the investors, therefore, the prayer made by the applicant that he needs to be enlarged on bail to make fund arrangement is without any basis. The case against the applicant is related to huge economic fraud and before his arrest, the applicant was in absconsion for about 6 years,

hence, his applications are liable to be rejected.

6. In reply, it is submitted by the counsel for applicant that assets of the company of applicant have been seized by SEBI, and the SEBI is monitoring the liquidation process for making refund to the investors. That apart, now only Rs.44 crores is remaining to be paid. Company of the applicant had though taken investments from the investors, but and this activity was stopped as soon as the order of SEBI was received which shows bonafidy intention of applicant. Therefore, on the basis of bonafide of applicant and due to delay in trial, the applicant be granted regular bail.
7. I have heard learned counsel for both the parties and perused the case diary.
8. Earlier application of this applicant has been rejected on merits by this Court and thereafter another application filed by the applicant for his release on bail for medical treatment has also been rejected on the ground, that treatment has been provided to applicant by jail authorities. Off-course, the case against applicant is grave in nature as huge amount has been defrauded i.e. Rs. 141,44,50,000/-. The statement of refunds made may be examined by the trial Court. The statement made on behalf of the applicant appears to be contradictory, as at one hand it is stated that the applicant himself is making efforts to make refund to the investors and intends to sell out his property for doing same, and on the other hand, the applicant has stated that the property and assets of the company has been seized and taken in possession by SEBI and the liquidation process is going on. Therefore, when the property & assets of the applicant are seized and in

possession of SEBI, then in what capacity he is making statement that he will sell out the property and make refund to the investors. Since huge amount has been defrauded in this case, the list of witnesses is also long, in the case which is against applicant, and therefore, trial is going to take some time. Further, the period for which the applicant is in jail is not excessive. Hence, looking to the enormity of offence that is alleged against applicant and also considering the period during which applicant had been absconding, I am not inclined to allow both these bail applications.

9. Accordingly, these bail applications filed under Section 439 of the Cr.P.C. are rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha