HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 5404 of 2019

Girija Shankar Kumar, S/o. Late Surendra Pratap Singh, Aged About 49 Years, R/o. 33 Mirchai Bari, Katihar, Bihar 854105, District : Katihar, Bihar.

---- Applicant

Versus

State Of Chhattisgarh, Through : Police Station -Ramanujganj District Balrampur, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Bishwajib Ghosh, Mr. Manoj Paranjpe, Mrs. Madhunisha Singh, Mr. Utsav Mahishwar, Advocates
For Respondent	:	Ms. Akanchha Jain, Dy.G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

04/10/2019

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.158/2017, registered at Police Station- Ramanujganj, District – Balrampur (C.G.) for the offence punishable under Section 420/34 of the Indian Penal Code and Section 10 of Chhattisgarh Protection of Depositors Interest Act, 2005.

2. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. The applicant is in jail since 26.07.2019. No case is made out against him. Applicant happens to be the director of Sun Plant Agro Limited, whereas he holds no position in another company styled as Sun Plant Business Limited. The alleged date of incident is between 09.01.2007 to 09.11.2014, whereas the FIR has been lodged on 09.11.2017 after huge delay. The allegation against the applicant do not constitute any offence on the contrary it is a case of mere failure in business. One separate case has been registered against the company of the applicant, before the Special Court of Calcutta, in which he has been granted bail. Therefore, the case is sub-judice before the SEBI Court. After the action taken by the SEBI, a report was given by Sun Plant Agro Limited, in which it is mentioned that the company has started making repayment of its investors and maximum repayment has been made. Therefore, the liability of the company of the applicant towards investors is only Rs.35.00 lakh remaining, whereas the complainant in this case had made investment of only Rs.1.00 lakh. Apart from that, it is submitted that the wife of the applicant is suffering from Cancer and the applicant himself is patient of Chronic Liver disease. Charge-sheet has also been filed in this case. The applicant is ready to give undertaking that he will make repayment of the remaining amount, which may be made a condition for grant of bail. Hence, it is prayed that the applicant may be enlarged on regular bail.

3. State counsel opposes the application for grant of bail and the submission made in this respect. It is submitted that article of association of companies that has been collected in the investigation shows that this applicant was the director of both the companies i.e.

Sun Plant Agro Limited and Sun Plant Business Limited. The matter i.e. pending before SEBI is different regarding liquidation of the company so that the investors get refund of the investment to some extent. It is a case of commission of huge fraud and this applicant is resident of other State, therefore, he is not entitled for grant of bail.

4. I have heard the learned counsel for the parties and perused the case diary.

5. FIR has been lodged by the complainant Krishnapad Mandal stating that in the year 2007, a Bank was inaugurated in Ramanujganj styled as Sun Plant Agro Limited Company Bank. The officers and the agents of the company gave inducement that on making deposits in the company, double of the amount will be returned in five years. Getting induced, the complainant made deposit of Rs.75,000/- himself and his brother made deposit of Rs.25,000/-. When the deposits matured in the year 2014, on making demand, the Branch Manager/Agents did not make any payment and kept stalling. Thereafter, the company was closed. This applicant and other directors were also approached for repayment, who gave only assurances, therefore, the FIR has been lodged and it is found in the investigation that numerous other persons have made several deposits and their deposits have been lost because of the fraudulent act of the company. Hence for this case..

6. Considered the submission made and the contents of the case diary. On perusal of the case diary, it is found that there is nothing to show that the company of this applicant had any authorization from SEBI or RBI for doing financial business and it is a case where numerous persons have been cheated because of unauthorized deposit schemes of the company, which can be deemed as fraudulent, hence

for this reason, this Court is not inclined to release the applicant on bail.

7. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Certified as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram