IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM M-2810 of 2019
Date of Decision: May 20, 2019

Sunder Saini …..Petitioner

Vs.

State of Haryana …..Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU.

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Present:- Dr. Anmol Rattan Sidhu, Sr. Advocate with
Mr. Pratham Sethi, Advocate for the petitioner.
Mr. Yashwinder Singh, DAG, Haryana.

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MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 Cr.P.C. for grant of bail pending trial in FIR No. 358 dated 08.09.2018, under Sections 406, 420, 467, 468, 471, 120B/ 34 IPC; Sections 4, 5, 6 of Prize Chits and Money Circulation Schemes (Banning) Act, 1978, (for short 'the 1978 Act), and Sections 2 and 3 of Haryana Protection of Interest of Depositors (in Financial Establishment) Act, 2013, (for short 'the 2013 Act'), registered at Police Station Sadar, Fatehabad.

Brief allegations in the present case levelled on the basis of complaint submitted by one Anil Sihag are that, there are thousands of bogus Chit Fund Companies functioning throughout India and Future Maker Life Care Pvt. Ltd., hereinafter referred to as 'Company', is having its Head Office at D.S.S. 45, Red Square Market, Hisar (Haryana). The said Company appoints agents in the name of selling its products by inducing general public and collects crores of rupees in cash, and causes loss of Income Tax to the

Government while taking for ride. The Company instead of getting the deposits invested, transects the business of crores of rupees daily in illegal manner as it is neither having any product; nor any manufacturing unit. It has tied-up with other companies only on papers, but does not purchase any product and receives approximately Rs.10 crores daily from its agents at Hissar, in cash, but no receipts are issued and it collects approximately Rs.40 crores daily through its agents in the entire country. On receipt of cash amount from the agents, after 15 days the Company takes IDs of persons and issues bills of his product @ Rs.7500/- per ID, but no product is supplied to anyone and profit is passed on to its agents on the basis of Bills only. The money is refunded to its agents in the Bank Account. For example, if someone has deposited Rs.252000/- in cash with the Company, after 15 days, on taking IDs of other person, different Bills of its product are issued and he is induced that within a period of 24 months, an amount of Rs.5 lacs would be deposited in his Bank account. The Company is not paying any Income Tax and issues half of the actual number of Bills and it is having one office at Village Dhangar, where there is no product and only by taking the IDs from agents, people are being misled.

It is contended on behalf of the petitioner that he has neither been named in the FIR; nor anything is to be recovered from him as report under Section 173 Cr.P.C. has already been submitted. Also contended that petitioner is only an investor and he is having no role in the affairs of the Company. Further contended that he has been granted the concession of bail by learned Trial Courts in Telangana cases and the present case is triable by Magistrate, therefore, petitioner deserves the concession of bail.

On the other hand, learned State counsel has opposed the above contentions while submitting that there are allegations of criminal breach of trust, cheating, falsification of record as well as under the Information Technology Act, 2000, for short 'the Act of 2000', to the tune of Rs.3000 crores against the Company and petitioner is one of the main Promoters who has induced innocent public for deposits on behalf of the Company. Further submitted that investigation in the matter is still going on and the petitioner is the main facilitator who had coordinated the affairs of the Company and received huge amount in his account from the Company and also purchased immoveable properties from the commission received in this regard. Further submitted that there are approximately 15 criminal cases pending against him along with the other co-accused, therefore, merely releasing on bail in Telangana cases are helpful to him.

Heard both sides and perused the paper book.

Perusal of the paper book as well as the police file reveals that petitioner is the main promoter and Coordinator, thus played active role for inducing the innocent people for soliciting deposits on behalf of the Company which has gone to the tune of Rs. 29569196250/-. Records reveal that out of the above amount, police is yet to verify the source of Rs.1053 crores as the accused are not fully cooperating in the matter. There are approximately more than 30 accused in this case who have spread their tentacles on behalf of the Company, therefore, this is a very serious issue and needs thorough probe by the investigating agency. It has also come on record that Company has caused loss to the State exchequer by not paying GST to the tune of more than Rs.398 crores/-, apart from the Income Tax. The contention on behalf of the petitioner that investigation has already been completed in this case is factually incorrect. As a matter of fact and record, investigation in the matter is still going on, as is clear from the affidavit filed on behalf of the State as well as police files. The Company has neither filed Income Tax Returns from the date of incorporation uptill now; nor any balance sheet or audit report regarding the deposits of Rs.29569196250/- received throughout India, in the last 3½ years till the registration of present FIR.

This Court has been apprised that following Criminal cases are pending against the Company in which petitioner is also an accused being the main promoter and details of which are as under:-

S.No.	FIR No. and date
1.	FIR No. 358 dated 08.09.2018 u/s 420/406/ 467/468/471/120-B IPC and Sections 4, 5 and 6 PCMCS Act, 1978 and Section 3 (2) HPIDFE Act, 2013, P.S. Sadar, Fatehabad.
2.	FIR No. 859 dated 09.09.2018 under Sections 420/406/467/468/471/120-B/506 IPC and Sections 4, 5 and 6 PCMCS Act, 1978 and Section 3 (2) HPIDFE Act, 2013, P.S. City Hisar.
3.	FIR No. 155 dated 09.04.2019 under Sections 420/ 406/467/468/471/120-B/506 IPC and Sections 4, 5 and 6 PCMCS Act, 1978 and Section 3 (2) HPIDFE Act, 2013, P.S. HTM Hisar.
4.	FIR No. 681 dated 11.09.2018 under Sections 420/120B IPC and Sections 4, 5 and 6 PCMCS Act, 1978 and Section 3 (2) HPIDFE Act, 2013, P.S. Sadar Bhiwani.
5.	FIR No. 710 dated 30.08.2018 under Sections 420/120B IPC and Sections 4, 5 and 6 PCMCS Act, 1978 P.S. Kukatpally, District Cybirabad (Telangana).
6.	FIR No. 643 dated 15.10.2018 under Sections 406/420/120B IPC and Sections 4, 5 and 6 PCMCS Act, 1978 P.S. Ramchanderpuram,

	District Cybirabad (Telangana).
7.	FIR No. 541 dated 04.09.2018 under Sections 420/120B IPC and Sections 4, 5 and 6 PCMCS Act, 1978 P.S. Chandanagar District Cybirabad (Telangana).
8.	FIR No. 768 dated 14.09.2018 under Sections 420/120B IPC and Sections 4, 5 and 6 PCMCS Act, 1978 P.S. Mailardevpally District Cybirabad (Telangana).
9.	FIR No. 322 dated 04.12.2018 under Sections 420/406/120B IPC PS Lalgarh Jatan, District Shri Ganganagar (Rajasthan).
10.	FIR No. 73 dated 10.04.2019 under Sections 420/406/120B IPC PS Lalgarh Jatan, District Shri Ganganagar (Rajasthan).
11.	FIR No. 305 dated 04.12.2018 under Sections 420/406 IPC and Sections 4, 5 and 6 PCMCS Act, 1978, P.S. Bhirani District Hanumangarh (Rajasthan).
12.	FIR No. 198 dated 25.03.2019 u/s 420, 406 IPC, M.P. Protection of Rights of Investors Act, 2000, P.S. Nimach Cantt. District Nimach (Madhya Pradesh).
13.	FIR No. 206 dated 29.03.2019 u/s 420, 34 IPC, P.S.Kotwali Sahdol, Distt. Sahdol (Madhya Pradesh).
14.	FIR No. 146 dated 26.11.2018 u/s 420, 34 IPC, P.S. Chalisgaon Road, Distt. Dhule, (Maharashtra).
15.	FIR No. 01 dated 19.02.2019 u/s 420, 406, 120-B

	IPC and Sections 4, 5 and 6 PCMCS Act, 1978 P.S. CID Amravathi Mangalagiri Distt. Guntur (Andhra Pradesh).

It deserves to be mentioned here that Company was incorporated on 26.02.2015 by co-accused Radhey Shyam and Bansi Lal with a total share capital of Rs.10 lacs in equal proportion and the main objects of the Company are as under:-

1. "*To do the business as trading, buyers, sellers, stockists, retailers, wholesalers, suppliers, distributors, marketing, advertisement or otherwise deal in electronic items, general use items, Fast moving consumer goods, fabrics, health, life care products, Spices, Tea and all other kinds of goods and services and general use items on direct selling basis or selling through Network Marketing, online shopping and Network Business.*
2. *To carry on all type of selling and purchasing activities directly or indirectly (both in internal and external markets on its own or as sales, purchase or commission, agents and brokers), to act as Service Agents for providing services, after sales and other technical services, to carry on business as marketing, technical consultants both in internal and external markets.*
3. *To act as selling agents, sales organizers as well as consultants, agents and advisors in all the respective branches, to appoint advisors and to open branches and in such capacity to give advice and information and render services to persons, firm, company or body incorporate or authority or government which may be given or rendered while carrying in such business as aforesaid.*
4. *To carry out market research, launch advertisement campaign, and to do all such things as may be necessary for the promotion of sales of any products or article."*

Despite repeated queries by the Court, nothing has come forward on behalf of the petitioner to substantiate that Company has fulfilled even a single object for which it was incorporated till date. There is sufficient material on record as well as with the Police to substantiate that petitioner along with his other co-accused, namely, Radhey Shyam and Bansi Lal, allured the public by showing dreams and accumulated the illegal deposits to the tune of Rs.29569196250/- and co-accused Bansi Lal has already been declared as Proclaimed Offender in this case. The modus operandi of the accused are to make members/ agents just for the sake of selling the non-existent products of the Company only on papers. During investigation, Pranjal Batra, incharge of Software Office of Company at Delhi, who used to maintain all the IDs, was associated by the investigating officer and he stated that there were 14 promoters of the Company and petitioner is at number one with ID No. FM102229 having Bank Account No. 50200026513322 with HDFC Bank, Hisar. He further stated that there are total 3283033 IDs with the Company and till date an amount of Rs.29569196250/- has been received and out of which there are 2330773 paid IDs worth Rs.19455480000/-. It deserves to be mentioned here that he has handed over a brief summary of promise as an example made to the customers at the time of enrolment, on behalf of the Company while defining the structural view and calculations of which are as under:-

> *Suppose a person deposits Rs.3.90 lacs in the company, he get 52 IDs online of Rs. 7500/- each, which contains 6000 Business Volume (BV per ID) and he is promised to get the income on four counts i.e.—*
>
> a) *Rs.53500/- one time +*
>
> b) *Rs.900000/- in 24 monthly instalments; and*
>
> c) *Rs.14000/- monthly for lifetime.*

The above example clearly reveals that promise made by the petitioner on behalf of the Company is totally farce and misleading to the depositors.

There is nothing on record that Company has got itself registered with the competent authority for online selling of the products as its name is not existing in the list of Direct Selling Entities maintained by the Ministry of Consumer Affairs or Direct Selling Association (FDSA) for Multi-level Marketing (Direct Selling). Neither the Company is having its own product; nor any agreement has been entered into with any other Company, rather the entire record has been falsified by misusing the provisions of the Act of 2000. The material collected during investigation further reveals that petitioner facilitated for incorporation of other fake companies on the same address of the Company just to siphon-off the deposits collected from the gullible depositors and he is the beneficiary from the said deposits. It has come on record that the petitioner purchased immoveable property i.e. agricultural land measuring 12 acres 5 kanals and 16 marlas in the revenue estate of Villages Bhirdana and Chindar, Tehsil and District Fatehabad, in the month of April 2018 and got constructed palatial house in the name of his wife and father. Paper book also suggests that amounts of Rs.2,95,00,893/-, Rs.93,13,128/- and Rs.5700000/- were deposited in the HDFC Bank Account Nos.50200026513322, 50100221334162, 50200029038177 maintained by the petitioner as well as his wife, respectively, from the account of the Company.

Uptill now, the deposits received by the Company have been acknowledged to be Rs.29569196250/-(more than Rs.2956 crores) from its incorporation i.e. 26.02.2015. Therefore, it is apparently clear that they adopted all illegal means and the petitioner has actively participated in duping and inducing the innocent people for coming forward to deposit the huge amounts only within a period of 3 ½ years from the initial total share capital of Rs.10 lacs of the Company. As per the material obtained from the Proprietor Krishan Kumar of Sahyog Tours and Travel, Red Square Market, Hissar, the petitioner used to travel to various destinations by Air on various occasions along with CMD Radhey Shyam and MD Bansi Lal; organized seminars and induced public for joining the Company and for soliciting deposits. The action of the petitioner as well as other co-accused is virtually an economic war on the Country and deserves to be thoroughly probed by the investigating agency, so that the perpetrators of the crime could be brought to justice.

Since the petitioner along with other co-accused are facing number of criminal cases registered in other parts of the Country also i.e. Telengana, Rajasthan, Madhya Pradesh, Maharashtra, and in case he is released on bail, will not only hamper the ongoing investigation in the matter but trial as well.

In view of the above, no ground is made out to grant the concession of bail pending trial to the petitioner, consequently, this Court is left with no option except to dismiss the same.

Ordered accordingly.

May 20, 2019 (MAHABIR SINGH SINDHU)
sanjay JUDGE

Whether speaking/ reasoned:	Yes/ No.
Whether Reportable:	Yes/No.