IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

CRM M-14874 of 2019
Date of Decision: May 20, 2019

State of Haryana …..Petitioner

Vs.

Radhey Shyam …..Respondent

CORAM: HON'BLE MR. JUSTICE MAHABIR SINGH SINDHU

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

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MAHABIR SINGH SINDHU, J.

Present petition has been filed under Section 439 (2) Cr.P.C. read with Section 482 Cr.P.C. for cancellation of regular bail granted to the respondent by Learned Additional Sessions Judge, Fatehabad, vide order dated 06.02.2019, 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 by learned State counsel that bail has been granted to the respondent in the present case by learned Additional Sessions Judge, which involves a scam of Rs.2956 crores, while observing that a report under Section 173 Cr.P.C. has already been submitted and respondent has been granted bail in other cases. Further submitted that as a matter of fact, investigation in the matter is still going on and the respondent being the CMD of the Company; is fully responsible for its affairs and there is every possibility of hampering the investigation. Further contends that respondent is still inducing public at large to come forward for making deposits with the Company and misguiding them so that they may not support the prosecution case. Also submitted that there are approximately 15 criminal cases pending against the respondent all over the Country and Bansi Lal, Managing Director of the Company has already been declared as proclaimed offender in this case.

On the other hand, learned Senior counsel for the respondent opposed the prayer and submitted that since the report under Section 173 Cr.P.C. has already been submitted and the respondent is in custody since long, therefore, his further incarceration was not justified, consequently, the learned Additional Sessions Judge has rightly granted the bail pending trial.

Heard both sides and perused the paper book.

It deserves to be mentioned that no reply or counter to the petition has been filed on behalf of the respondent.

Impugned order dated 06.02.2019 passed by learned Additional Sessions Judge clearly reveals that bail has been granted to the respondent primarily on two counts:--

i) firstly, report under Section 173 Cr.P.C. has been submitted; and

ii) secondly, he has been granted bail in other criminal cases;

This Court has gone through the report under Section 173 Cr.P.C. as well as paper book carefully and perusal of the same reveal that both the reasons assigned by learned Additional Sessions Judges are bereft of any substance. Record reveals that investigation in the matter is still going on and it is specifically asserted on behalf of the State that after collecting the relevant material, a report under Section 173 (8) Cr.P.C. is to be submitted in due course. In this case there are more than 30 accused and Managing Director of the Company, namely, Bansi Lal, is still at large and he has already been declared as a proclaimed offender by learned trial Court.

Although in Telangana cases (P-2 and P-3), respondent has been granted bail, but that does not entitle him for extending the benefit of bail pending trial in the present case as he is facing as many as 15 criminal cases of similar nature all over the country and the 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 respondent 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."*

Respondent being the CMD is fully responsible for affairs of the Company and thus by inducing the general public, smashed huge finance of Rs.2956 crores and out of which the police is yet to verify about the deposit Rs.1053 crores as the same has not been disclosed by the respondent as well as other co-accused. Even otherwise, this is the specific stand of the State that respondent is openly declaring that he is going to be granted clean chit being innocent and depositors should support the cause of the Company instead of going against him, therefore, this action of the respondent not only amounts to an interference in the on-going investigation, but will also hamper the trial and in this regard one compact disc (CD) has been placed on record on behalf of the prosecution, which is not denied by the respondent.

Despite repeated queries by the Court, nothing has come forward on behalf of the respondent 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 in the Police to substantiate that respondent along with his other co-accused, namely Bansi Lal and Sunder Saini, allured the public by showing dreams and accumulated the illegal deposits to the tune of Rs.29569196250/-. The modus operandi of the accused is 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. 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 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 modus operandi adopted by the respondent as well as other co-accused is totally farce and misleading to the gullible 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 products; nor any agreement has been entered into with any other Company, rather the entire record has been falsified by misusing the provisions of the Information Technology Act, 2000. The material collected during investigation further reveals that co-accused in conspiracy with the respondent facilitated for incorporation of other fake companies on the same address of the Company just to siphon-off the deposits collected from the innocent customers.

Within a period of 3½ years, the Company has accumulated the amount of Rs.29569196250/-(more than Rs.2956 crores) while adopting all illegal means and respondent being the CMD is fully responsible for this big scam, which deserves to be probed thoroughly. The unaccounted and illegal deposits received by the Company are virtually an economic war against the Country and deserves to be probed by the investigating agency with full dedication so that perpetrators of the crime could be brought to justice.

Since the respondent 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, therefore, there was/is no justification to grant bail in the present case, but learned Additional Sessions Judge has ignored the above material aspect while passing the impugned order.

In view of the above, this Court has left with no option except to allow the present petition and to set aside the impugned order dated 06.02.2019 passed by learned Additional Sessions Judge, Fatehabad.

Ordered accordingly.

Consequently, the bail bonds and surety bonds submitted by the respondent pursuant to the impugned order dated 06.02.2019, stands cancelled. Respondent is directed to surrender before the trial Court, forthwith, if already released.

Registry is directed to send a copy of this order to Learned Sessions Judge, Fatehabad, for intimation.

May 20, 2019 (MAHABIR SINGH SINDHU)
sanjay JUDGE

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