NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4180 of 2020

- Bhabtosh Choudhary S/o Bhajan Choudhary, Aged About 39 Years R/o Village Malkangiri, District Malkangiri, Orrisa

----Applicant

Versus

1. State Of Chhattisgarh Through The Station House Officer, Police Station Konta, District Sukma Chhattisgarh

---- Respondent

For Applicant	:	Shri Manish Nigam, Advocate
For State	:	Shri Alok Bakshi, Addl. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

03/09/2020

Heard.

1. The applicant has been arrested in connection with Crime No.19/2019 registered at Police Station – Konta, District – Sukma (C.G.) for alleged commission of offences under Section 409, 420, 34 of IPC and Section 10 of Chhattisgarh Protection of Depositor Interest Act, 2005 and Section 4, 5, 6 of Chit Fund Act, 1978.

2. Prosecution case is that one Micro Finance Company lured investment through their employees and agents and collected by way of investments made by investors huge amount of 91,78,000/- during the period from 2012 to 2015. The allegations against the applicant and the co-accused that though the company, later on, stopped operating in the year 2012, the applicant and other co-accused continued to collect investment money through the agents and in this manner, they cheated the investors and agents also.

3. Learned counsel for the applicant would submit that the applicant is not involved in alleged commission of offence. He would submit that the statement of investors recorded during investigation shows that they had invested money with the agent. He would submit that the agents having collected money never deposited any money with the applicant and later on, made false complaint against the applicant that the money

collected from the investors have been deposited with the applicant and co-accused. He would submit that neither the investors nor agents submitted any acknowledgment of receipt of deposit of money with the present applicant at any point of time. He would next submit that present applicant was an employee of Micro Finance Company Limited and later on, he was suspended on 19/11/2013 and then, his employment also came to an end. Learned counsel also argues that FIR has been lodged on the basis of complaint made by the agents to actually collect the money from the investors after five years making allegations against the present applicant based on no material except oral statement. It is also submitted that the applicant is in jail since 21/01/2020 and there is no material progress in trial nor the trial is likely to be concluded early. Therefore, at this stage, the applicant may be granted bail by imposing appropriate conditions to ensure his presence during trial.

4. On the other hand, learned State counsel opposes prayer and submits that during investigation, it was found that the complaint was made by one of the agent and on that basis, during investigation, it was found that large number of investors, about 535 in number, were induced on a false promise of huge return to make investments with the Micro Finance Company whereas the company was not having the authority to act as finance company for collective investment scheme, which information was received from the Reserve Bank of India and also SEBI. He would further submit that the Micro Finance Company was legally not authorised to operate any such collective investment scheme after banning of such scheme by RBI in the year 2012 and in the name of company, huge amount was collected and invested with the present applicant and co-accused who were working as Manager, Deputy Manager, Clerks etc. Therefore, *prima facie* case is made out.

5. Considering the submission made by learned counsel for the parties, material on records of the charge sheet and case diary, particularly, taking into consideration that criminal case has been registered on the present applicant on the basis of complaint made by the agents and that agents having admitted collection of money from the investors, have come out with the statement that they had deposited the money with the applicant without producing any acknowledgment receipts or deposits with the present applicant and investors in their diary statement have stated regarding deposit with the agent and further considering that the applicant is in jail since 21/01/2020, charge sheet has already been filed and there is no likelihood of early conclusion of trial at this stage and also that no material has been disclosed that in the event of grant of bail, the applicant would misuse the liberty or flea away from justice or tamper with the prosecution witnesses, at this stage, I am inclined to grant bail to the applicant.

6. Accordingly, the application is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- along with one local surety for the like amount to the satisfaction of the Trial Court on the condition that -

a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

b) He shall not make any attempt to tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Deepti