NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5915 of 2020

- Anindyo Poul S/o Sri Radha Raman Poul Aged About 43 Years R/o 75/1, Kanshi Nath Chattarjee Len, Forth Floor, Shibpur Howrah, District - Howrah (West Bengal) 711102, District : Howrah, West Bengal

---- Applicant

Versus

- State Of Chhattisgarh Through - Station House Officer, C S E B Chowki, Thana - Kotwali, District - Korba Chhattisgarh

---- Respondent

For Applicant	:	Shri Sanjay Patel, Advocate
For State	:	Shri Gagan Tiwari, Dy. Govt. Adv.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

13/10/2020

Heard.

1. The applicant has been arrested in connection with Crime No.434/2015 registered at Police Station – CSEB Chowki, Thana – Kotwali, Distt. - Korba (C.G.) for alleged commission of offences under Section 420, 409, 406, 120-B, 34 of IPC, Section 4 of Chit Fund Act (Inami Chit Fund and Parirakshan Scheme Pabandi Adhiniyam) and Section 10 of Chhattisgarh Protection of Depositors' Interest Act, 2005 (Chhattisgarh Nikshepakon Ke Hiton ka Sanrakshan Adhiniyam).

2. Prosecution case is that the applicant and other co-accused are involved in operating a chit fund company in the name of Dolphin Infra Power Project which collected huge amount from large number of investors from 2013 on the assurance of giving high return and also issued redemption letters to the investors but later on, the company wound up its business and thus, cheated all the investors. According to the

prosecution, the amount of investment of different investors is in the tune of approximate one crore. The allegation against the applicant is that the applicant was working as Marketing Executive and later on, he was promoted as Marketing Director and Executive Director having substantial position and share holding in the company and it is alleged that he was holding 14,000 shares indicating that he was also managing affairs of the investment company. According to the prosecution, approximately Rs.1 crore is involved in the cheating by the company causing wrongful loss to investors.

3. Learned counsel for the applicant would argue that the applicant was working as an employee, though on a senior position. The complainant and other investors whose statements have been recorded, have not stated that the applicant induced them to invest. He would further submit that the applicant himself was one of the investor and holds large number of shares. Learned counsel also argues that the applicant is in jail since 04/03/2020, investigation is complete and charge sheet has been filed. Therefore, at this stage, when the trial is not proceeding nor likely to conclude early, he may be granted bail as further custodial interrogation is no longer necessary while in judicial custody.

4. On the other hand, learned State counsel opposes bail application and would argue that the Chit Fund company has misled and cheated large number of investors and total of approximate Rs. 1 crore is involved in the act of cheating. He would argue that the company lured and gave false promise to large number of investors that they would be getting high return but no such payments were made and after sometime, the investment company stopped giving any return to the investors and in this manner, by cheating, from the investors, about Rs.1 crore was collected. He further submits that the applicant is not a small employee but he was occupying an executive post in the company and was also managing affairs of the Chit Fund company as he was holding about 14,000 shares in the Chit Fund company. He would argue that the entire affairs

of the Chit Fund company was managed by the applicant and he collected huge amount from the investors on false promise of high return and thereafter, ran away. He further submitted that the main accused is still absconding and has not been arrested. The FIR in the present case was lodged in 2013 but the applicant has been arrested only in March 2020 as he was also absconding. Therefore, at this stage, if he is granted bail, he would flee away from justice which will hamper smooth progress of trial. The applicant has played one of the main lead role as number of redemption certificates to the investors has been issued under the signature of the applicant.

5. In the present case, investigation is complete, charge sheet has been filed and the applicant is in jail since 04/03/2020. The allegations contained in the FIR lodged by one of the investors is that some person, not the applicant, approached him and lured him to invest in the company assuring him of high return. About 29 investors have also stated in the case diary statements regarding investment in the company. The applicant has been involved in the alleged commission of offence because he was an employee in the company. He has also purchased about 14,000 shares in the company. The applicant claims that he did not lure any investors and he himself was one of the major investors in the company, therefore, it cannot be said that since beginning when various investors invested, the applicant had any intention to cheat. It is his case that the applicant cannot be held criminal liable when the investments were made in the year 2013 and till June, 2014 investors were paid interest also. The dispute arose only when the company, later on, failed to pay assured amount of interest which could be for many reasons. Therefore, considering the overall aspects of the matter and that the applicant is in jail since 04/03/2020, investigation is complete, charge sheet has been filed and that further custodial interrogation while judicial custody does not appear to be necessary, 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.1 lakh with one

surety for the like amount to the satisfaction of the Trial Court on the condition that -

a) The applicant shall not leave the State of Chhattisgarh without the permission of the Trial Court.

b) He shall fully cooperate in further investigation if any and shall appear before the Trial Court on each and every date unless exempted from appearance.

c) He shall deposit his passport with the Trial Court.

d) He shall not make any attempt to tamper or dissuade any of the prosecution witnesses.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Deepti