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HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5912 of 2020**

- Santosh Kumar Vishwakarma, S/o Ramesh Kumar Vishwakarma, aged about 32 Years, Caste Lohar, R/o Ward No. 12, V.T.C. Colony, Shivpur, Charcha, District Koriya Chhattisgarh, At Present R/o Village Godhanpur, Ambikapur, Police Station and Tahsil Ambikapur, District Surguja Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through the S.H.O. Police Station Kotwali, Ambikapur, District Surguja Chhattisgarh.

---- Respondent

For Applicant	Shri Ashok Kumar Shukla, Advocate.
For Respondent/State	Shri Rakesh Sahu, Deputy Government Advocate.

MCRC No. 6304 of 2020

- Ashok Acharya @ Rambachan Priyadarshi, S/o Shree Ujagir Ram, aged about 42 Years, Occupation Business, R/o Village Erka, Post Office Amba, Aurangabad (Bihar) 824111, Presently Residing at Gotari Road, Room No. 41, Shivam Party Plot Nuclear Park, Badodara,(Gujrat) 390020

---Applicant

Versus

- State of Chhattisgarh, Through- In- Charge Police Station- Kotwali Ambikapur, District- Ambikapur, Chhattisgarh

---- Respondent

For Applicant	Shri K.N. Nande, Advocate.
For State	Shri Rakesh Sahu, Deputy Government Advocate.
For Objector	Shri Rajat Agrawal, Advocate.

MCRC No. 6315 of 2020

- Sharda Jaiswal, D/o Late Bhola Jaiswal, aged about 42 Years, R/o Chopdapara, Ambikapur, P.S. Gandhinagar, Tahsil Ambikapur, District Surguja Chhattisgarh.

----Applicant

Versus

- State of Chhattisgarh, Through Station House Officer, Police Station Kotwali, Ambikapur, District Surguja Chhattisgarh.

---- Respondent

For Applicant	Shri C. Jayant K. Rao, Advocate.
For State	Shri Rakesh Sahu, Deputy Government Advocate.

MCRC No. 6874 of 2020

- Dineshwar Prasad Jaiswal, S/o Late Ramnarayan Jaiswal, aged about 43 Years, Cast- Kalar, Occupation- Business, Resident of Village- Jhumarpara, P.S.- Bishrampur, Tehsil and District- Surajpur, Chhattisgarh

----Applicant

Versus

- State of Chhattisgarh, Through- Police Station- Kotwali, Ambikapur, Distt.- Surguja, Chhattisgarh

---- Respondent

For Appellant	Shri Vinod Kumar Pandey, Advocate.
For State	Shri Rakesh Sahu, Deputy Government, Advocate.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

20/11/2020

1. As all these applications filed under Section 439 of Cr.P.C. arise out of the same Crime No.389/2020 registered at police station Kotwali, Ambikapur, District Surguja, C.G. for the offence punishable under Sections 419 and 420 of Indian Penal code and Section 10 of Protection of Depositors Interest Act, 2005 and Section 66 (D) of the IT

Act, they are being disposed of by this common order.

2. Case of the prosecution, in brief, is that complainant A.N. Pandey lodged a written complaint at police station Kotwali, Ambikapur, District Surguja, C.G. to the effect that Director/Manager of Wish Wallet Company namely applicant Ashok Acharya committed fraud with many persons by making them deposit money with the company on the allurements of getting four times return within four weeks. The applicant Ashok Acharya and other applicants herein who are agents of the said company, on the pretext of failure of link and server being down did not return the money to the investors as promised by them. On report being lodged to the above effect, offence under the aforesaid sections have been registered against the applicants.

MCRC No.6304 of 2020

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. He submits that the money of the investors could not be returned to them within time due to failure of link and server being down as also for some technical reasons. He submits that no cheating or fraud as alleged has been committed by the applicant. He submits that the applicant is in jail since 18.07.2020, conclusion of the trial is likely to take some time and, therefore, the applicant be released on bail by imposing suitable conditions.
4. On the other hand, learned counsel for the State as well as the objector opposes the bail application.

MCRC No.5912 of 2020

5. Learned counsel for the applicant submits that the applicant is neither director nor any employee of the said company but he is just a

depositor like others and also invested money with the company. He also submits that Home Department of Chhattisgarh earlier issued a letter to all the concerned Collector and DM, SPs and District Public Prosecutor Officers regarding withdrawal of Chit Fund cases against the agents in view of obtaining evidence under Sections 306 and 307 of Cr.P.C. i.e. tender of pardon to accomplice and power to direct tender of pardon respectively vide Annexure A-2. Aforesaid letter has been circulated to all the concerned Judicial Officers including the Registrar General of this Court vide Annexure A-3. He submits that no fraud or cheating has been committed by the applicant. The applicant is languishing in jail on 31.07.2020, the charge sheet has not yet been filed and there is every likelihood that conclusion of the trial will take some time, therefore, the applicant be released on bail.

MCRC No.6315 of 2020

6. Learned counsel for the applicant submits that the applicant is an innocent person and she has been falsely implicated in this case. It is submitted that the applicant being an agent of the said company after receipt of money duly deposited the same with the company and she has not committed any fraud or cheating with the investors. It is submitted that the applicant herein had herself made a complaint to the Station House Officer of Police Station Ambikapur against the said company for registration of FIR vide Annexure A-2. The applicant is in jail since 08.08.2020 and conclusion of the trial is likely to take some time, therefore, the applicant be released on bail.

MCRC No.6874 of 2020

7. Learned counsel for the applicant submits that the applicant has been

falsely implicated in this case. He submits that no fraud or cheating has been committed by the applicant. The applicant is in jail since 31.07.2020, charge sheet has not yet been filed and conclusion of trial is likely to take some time, therefore, the applicant be released on bail.

8. On the other hand, learned counsel for the State opposes the submissions made on behalf of the above applicants.
9. So far as **MCRC No.6304 of 2020** is concerned, considering the facts and circumstances of the case, in particular of the fact that applicant Ashok Acharya, resident of Aurangabad, Bihar, is the Director/Manager and In-charge of the Company Wish Wallet, Baroda, Gujrat, actively involved in accepting money from the villagers, he is the main person who was running his company through channelized system and his case is distinguishable from the case of other applicants, without commenting anything on merits of the case, this Court is of the opinion that present is not a fit case for releasing the applicant- Ashok Acharya @ Rambachan Priyadarshi on bail. Accordingly, **MCRC No.6304 of 2020** is rejected.
10. Considering the facts and circumstances of the case, the nature of allegations leveled against the applicants i.e. Santosh Kumar Vishwakarma, Sharda Jaiswal and Dineshwar Prasad Jaiswal, the fact that they were working in the capacity of agents only and they also made a complaint against the said company, the detention periods of the applicants and that disposal of the trial is likely to take some time, without expressing any opinion on merits of the case, their applications (**MCRC No.5912 of 2020, MCRC No.6315 of 2020 and MCRC No.6874 of 2020**) are allowed. It is directed that in the event

of applicants namely **Santosh Kumar Vishwakarma, Sharda Jaiswal and Dineshwar Prasad Jaiswal** executing a personal bond for a sum of **Rs.50,000/- each** with two equivalent sureties for the like amount to the satisfaction of the concerned trial Court, they shall be released on bail on the following conditions:-

- (i) They shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
- (ii) They shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) They shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.
- (iv) They shall not involve themselves in any offence of similar nature in future.

Sd/-
Gautam Chourdiya
Judge

Akhilesh