NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7472 of 2020

- Keshav Jaiswal S/o Chhote Lal Jaiswal Aged About 42 Years R/o Village Mohanpara, Akaltara, Police Station Akaltara, District Janjgir Champa Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Bhupdeopur, District Raigarh Chhattisgarh

---- Respondent

For Applicant	:	Shri Rajeev Kumar Dubey, Advocate
For State	:	Smt. Hamida Siddiqui, Dy.A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

10/12/2020

Heard.

1. The applicant has been arrested in connection with Crime No.22/2017 registered at Police Station – Bhupdeopur, District – Raigarh (C.G.) for alleged commission of offences under Section 6 and 10 of Chhattisgarh Protection of Depositors Interest act, 2005 and Section 420, 409 and 120-B of IPC.

2. Learned counsel for the applicant submit that the applicant has been falsely implicated in this case. It is not denied that this applicant is one of the Directors and his company invited investments from the investors of the area, which is permissible under law. The bonds issued for the investments made by the investors have not matured, even then the FIR was lodged. Even if it is assumed that any offence has been committed, then the offence shall be as defined under the Companies Act, 2013; in that case no Court can take cognizance and the complaint should be in writing by the Registrar or a share holder or a person authorized by the Central Government. In this case, the FIR has been lodged by complainant – Gandhiram and the offence has been registered against this applicant. The applicant is ready to refund all the amounts received from the complainant. Hence, it is prayed that the applicant be enlarged on

bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the applicant happens to be the proprietor of the company and he is responsible for the policies and the schemes floated for inducement of the innocent public to make them victims in the fraudulent schemes. The company of this applicant had no authority from Reserve Bank of India or SEBI for receiving such deposits from general public. Numerous investors have deposited in the fraudulent schemes of the company and they have lost the same. Hence, the applicant is not entitled for grant of bail.

4. Heard counsel for both the parties and perused the case diary.

5. The complaint was filed by complainant – Gandhiram that he had sold a land for Rs.12,00,000/- on 24.7.2012. Out of the consideration, an amount Rs.5,00,000/- was not paid to the complainant. The purchaser of land – Keshav Jaiswal induced him to deposit in the scheme of Pulse Gold Real Estate India Limited, Bilaspur in a fraudulent manner, promising that the profit earned in that business is being distributed between the investors. The complainant was not given any monthly repayment of interest and on enquiring about it, he was threatened by the concerned. Lastly, he came to know that the company is closed, although the bonds of the Company were issued in his favour. The case has been investigated and the charge-sheet has been filed.

6. On perusal of the contents of the case-diary, it appears that no investigation has been made that there had been numerous investors in the scheme of the company apart from the complainant and this amount involved in the cheating according to the investigation made remains limited to Rs.5,00,000/-. It appears that the company of the applicant is a registered Company under the Companies Act, 2013, but such company is prohibited to take investments from private depositors under Section 73 of the Companies Act. But on certain conditions and with approval of Reserve Bank of India and SEBI, investments/ deposits from private depositors could be taken according to the provisions under Section 76 of the Companies Act. The investigation does not show that such sanction or provision was obtained.

7. Considering all the material present in the case diary and looking to the fact that the applicant is a local resident of District - Akaltara and there being no such allegation that the fraud has been committed at huge scale, for these reasons, I am of the considered view that present is a fit case for grant of bail.

8. 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.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Deepti