

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC no. 7949/2019

Reserved on 22-9-2020

Delivered on 25-9-2020

Shashank Balasaheb Bhapkar S/o Bala Saheb Bhapkar Aged About 27 Years R/o Sai Pratap Bungalow, Sukvani Garden, Pimpi, Chinchbai, Link Road, Pune, Mumbai, Maharashtra

---- Applicant

Versus

The State Of Chhattisgarh Through S.H.O., Patna, Baikunthpur Distt. Koriya, CG

– Non-applicant

For applicant	Mr. Shrikant Mishra, Adv.
For State	Mr. D.C. Verma, Govt. Adv.

Hon'ble Shri Justice Sharad Kumar Gupta**CAV ORDER**

1. This is 2nd bail application under Section 439 of the Cr.P.C. preferred by the applicant before this Court and his no bail application is pending before any other court.
2. His 1st bail application was dismissed by Registry vide order dated 19-11-2018 due to non-compliance of order of this Court passed on 1-11-2018 in MCRC No. 8492/2018.
3. The applicant has been arrested in connection with Crime No 134/2016 registered in police station Patna, Baikunthpur, Distt. Koriya (CG) for offence punishable under Section 420/34, 120-B, 409, of the IPC.
4. This is admitted by applicant that at the time of establishment of Sai Prasad Group and Company he was the Director. The company had floated various collective investment schemes to the public at large for investing money. SEBI had initiated action against the company. EOW Mumbai had investigated into the matter for default of payments to investors and seized various properties of the company.
5. Prosecution story in brief is that the company was running some schemes across India. They induced public at large that on making

investment in the company they will get maximum interest in short period, and the amount would become double. So many persons were trapped in their schemes. More than 40 cases involving more than 60 crores of rupees are pending against the company. In the case in hand, complainant Diwan Singh on account of bluff given by the co-accused Raj Kumar and the said company, invested Rs. 12,00,000/- in the company. He received cheque for sum of Rs. 14,400/- from February, 2012 to August 2015, he also received a cheque for sum of Rs. 90,000/-. Thereafter he did not receive any amount.

6. Counsel for the applicant submitted that when applicant was minor, he became Director in the company. The liabilities of the investors are secured by the properties of the company. He had given conditional NOC for the auction of the properties of the company. Some properties are already auctioned. Sale proceeds have been deposited in the account of EOW Mumbai. He is in custody since 2016 and there is no progress in trials. From behind the bar he cannot accelerate the repayment process to the investors. Co-accused Raj Kumar is already bailed out by the coordinate bench of this Court, the trial is not concluded within 1 year from 11-3-2019 as directed by Hon'ble Supreme Court. Hence he be released on bail.

7. On the other hand, the State Counsel opposed the bail application.

8. If the trial is not concluded within the prescribed period of limitation as directed by Hon'ble Supreme Court, the the applicant is free to take the recourse of the provisions of Section 437(6) of the Cr. P. C. before the trial Court.

9. Co-accused Raj Kumar is bailed out by coordinate bench of this Court exercising the power vested under Section 482 of Cr.P.C., where the pardon was granted to him. In the case in hand, no pardon had been granted to the applicant, more over the matter is not under Section 482, of the Cr.P.C. Hence, the applicant does not get any help from the bail order passed in favour of co-accused Raj Kumar by the coordinate bench of this Court.

10. Looking to the facts and circumstances of the case, looking to the huge amount involved in the matters of said company, looking to the fact that complainants are from across the country, further looking to the seriousness of the offence and the impact of granting bail to the applicant on society, this Court finds that the instant case is not a fit case for grant of bail. Consequently, 2nd bail application is rejected.

Sd/-
(Sharad Kumar Gupta)
Judge