

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 2124 of 2019

- Pijush Majumdar, S/o Prashant Majumdar, Aged About 34 Years, R/o 5/a Anushtha Residency Junwani, Khamhariya Road Bhilai, P.S. Chowki Jevra, Sirsa, Tahsil and District-Durg, Chhattisgarh.

---- Petitioner

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station Tumgaon, District Mahasamund, Chhattisgarh. (Wrongly Mentioned As Mana Camp, Raipur), District : Mahasamund, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Goutam Khetrapal, Advocate.
For Respondent/State	:	Mr. Devendra Pratap Singh, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

02/01/2020

Heard.

1. This is second application on behalf of the applicant for grant of anticipatory bail. His earlier bail application bearing MCRCA No.1212/2019 has been dismissed on merits by this Court vide order dated 26.9.2019.
2. It is submitted by the learned counsel for applicant that earlier application has been rejected only on technical ground that on account of registration of offence under Section 10 of the Chhattisgarh Protection of Depositors Interests Act, 2005, the application for anticipatory bail is barred under Section 15 of the said Act. It is submitted that in the subsequent development, learned trial Court while considering the question of framing charge under Section 10 of

the Act, 2005 has held vide order dated 22.10.2019 that there is no *prima facie* case for framing charge under Section 10 of the Act, 2005 against the accused persons for the reason that the charge-sheet filed was not complete. Due to this subsequent development, a new circumstance has arisen in favor of this applicant and therefore it is prayed that he may be granted anticipatory bail, on the basis of same logic that there is no *prima facie* case present against this applicant for his prosecution under Section 10 of the Act, 2005.

3. Learned counsel for State opposes the application and submissions made in this respect. It is submitted that the applicant cannot claim benefit from an order which has been passed with respect to accused persons who are facing trial. The applicant is yet to be arrested and interrogated and additional investigation has to be made to find out his complicity in the commission of offence. There is sufficient evidence present in the case diary against this applicant regarding his involvement in the commission of offence, therefore, he is not entitled for grant of anticipatory bail subsequent to rejection of his earlier application on merits.
4. I have heard both the parties and perused the documents on record.
5. Consideration on grant of bail and consideration on framing of charge both are not the same. It is clear that the trial Court has considered and passed order for framing charge against co-accused persons who are facing trial, therefore, the finding given in that order cannot be held to be an order with reference to this applicant. Further, this Court has already observed in the order dated 26.9.2019 passed in MCRCA No.1212/2019 that there are allegations against the applicant with respect to commission of offence under the provision of the Act, 2005 and, therefore, the application for grant of anticipatory bail is barred

under Section 15 of the Act, 2005. A *prima facie* case for commission of such offence would be made out or not is a different level of consideration which can be done only by the trial Court when the applicant would appear before the Court to face trial. This Court is bound by the observation made in the earlier order, which cannot be reviewed or recalled for the purposes of considering application for grant of anticipatory bail. Therefore, I do not find any substance in this repeat application for grant of anticipatory bail which is liable to be dismissed and is hereby dismissed.

Sd/-

(Rajendra Chandra Singh Samant)
Judge