

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.2164 of 2019

- Ruchita Rathore, W/o Balram Rathore, Aged About 40 Years, R/o 402, 4th Floor, Sanskar Heights, Gayatri Nagar, Khamhardih Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through - P.S. Khamhardih, District Raipur, Chhattisgarh

---- Respondent

MCRCA No.2171 of 2019

- Balram Rathore, S/o Shri Bhagwan Lal Rathore, Aged About 52 Years, R/o 402, 4th Floor, Sanskar Heights, Gayatri Nagar, Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through- Police Station Khamhardih, District Raipur, Chhattisgarh

---- Respondent

For Applicants	Shri Kishore Bhaduri, Advocate
For Respondent-State	Shri Ravish Verma, GA
For Respondent-Objector	Shri Saleem Kazi, Advocate

Proceeding through Video Conferencing

Hon'ble Justice Shri Prashant Kumar Mishra

Order On Board

10/08/2020

1. The applicants have preferred these bail applications under Section 438 of CrPC, as they are apprehending their arrest in

connection with Crime No.18/2019, registered at Police Station Khamhardih, District Raipur, for the offence punishable under Section 420 read with Section 34 of IPC.

2. The applicant Balram Rathore is a chartered accountant. He along with his wife, the applicant Ruchita Rathore, persuaded the complainants, who are real sisters residing in the applicants' neighborhood, to invest the amount lying with them. According to the complainants, the applicants were paid Rs.64 Lakhs through cheques and Rs.1 Lakh in cash for investment. The applicants in turn allegedly invested the amount in the company belonging to Pawan Verma and Piyush Verma, however, after the promised period, the amount was not returned with interest, therefore, the complaint has been filed.
3. Shri Bhaduri, learned counsel for the applicants, would submit that infact a sum of Rs.55 Lakhs was paid to the applicants and the remaining amount of Rs.10 Lakhs was paid by cheque directly to Shri Pawan Verma. According to him, the amount paid by the applicants was invested and the return was not forthcoming, therefore, they could not repay the amount. In order to settle the amount, the applicants wanted to sell a piece of land belonging to the applicants, but the complainants refused to purchase the same. Shri Bhaduri would refer to the judgment rendered by the Supreme Court in the matter of **Satishchandra Ratanlal Shah vs State of Gujrat and another**, reported in (2019) 9 SCC 148 to argue that there is no culpability or *mens rea* in matters which are purely monetary transactions. Shri Bhaduri would submit that the applicants have roots in the society

and they are not likely to abscond and avoid the trial. He would also submit that the applicants have been allowed interim protection by this Court which they have never misused.

4. Per contra, Shri Ravish Verma, learned Government Advocate and Shri Saleem Kazi, learned counsel for the objector would vehemently oppose the prayer for grant of anticipatory bail. According to them, the applicants being neighbors were aware of the financial position of the complainants, therefore, they designedly allured the complainants to invest the amount with an intention from the beginning not to return the amount. Shri Kazi would additionally submit that incorrect statements were made before this Court that the negotiation for settlement is going on, whereas the complainants never intended to negotiate for settlement of the issue.
5. Having heard learned counsel for the parties, it appears that the dispute pertains to investment of the amount through the applicants who are husband and wife, while the husband Balram Rathore is chartered accountant. One of the complainants is a government servant, as is appearing in the FIR itself. They are not illiterate or rustic, therefore, they have invested the amount through eyes wide open. They have taken the risk of making investment without signing any agreement with the applicants. In any case, the transaction is purely civil in nature being monetary transaction. The offences are triable by the Judicial Magistrate First Class and the applicants are already on interim protection by this Court, therefore, considering all the relevant aspects of the matter, this Court is inclined to extend benefit of anticipatory

bail to the applicants.

6. Accordingly, both the bail applications are allowed and it is directed that in the event of arrest of the applicants, they shall be released on anticipatory bail on each of them executing a personal bond for a sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the Arresting Officer with the following conditions:-

(i) they shall make themselves available for interrogation by a police officer as and when required.

(ii) 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 facts to the Court or to any police officer.

(iii) they shall not influence the witnesses during pendency of the trial.

Sd/-
Prashant Kumar Mishra
Judge

Nirala