NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. (A) No. 155 of 2021

Ankit Vyas Son of Mahesh Vyas Aged About 36 Years Resident of Village and Post- Durga Colony, Marimata Chauraha, Police Station- Indore, District- Indore (MP)

---- Applicant

Versus

State of Chhattisgarh through the Station House Officer, Police Station- Patna, District- Korea (CG)

---- Non-Applicant

For Applicant	: Shri Gautam Khetrapal, Adv.
For State/Non-Applicant	: Shri Dinesh Tiwari, Dy. Govt. Adv.

Hon'ble Shri Justice N.K. Chandravanshi

Order on Board

15-9-2021

1. The applicant has preferred this bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 131/2019 registered at Police Station Patna, Distt. Korea (CG) for the offence punishable under Section 420/34 of the Indian Penal Code.

2. Brief facts of the case are that on 23-8-2019, complainant Neeraj Kumar Sharma filed written FIR against Avinash Singh, Arun Mittal and Rahul Mishra mentioning that they are employees of firm Monetary Solution, Indore. They have fraudulently stated that if he invests Rs. 13 lacs, then he could earn Rs. 26 to 28 lacs in one month. Fastening in their trap, during 13-11-2017 to 5-1-2018, he deposited Rs. 11,64,820/- in the account of Krishnanand Dave and in the name of firm Monetary Solution, through his bank. After one month, he asked to return aforesaid amount with alleged benefits, then they avoided and thereby they have cheated him of the amount of Rs. 11,64,820/-.

3. The matter is still under investigation of the police.

4. Learned counsel for the applicant submits that the applicant is a proprietor of firm Monetary Solution, which has been registered by Securities and Exchange Board (SABI). He gives advise to his clients regarding investment and takes service fees against it. Complainant Neeraj Kumar Sharma is also a client of the applicant's

firm, from whom, he has received Rs. 1,30,910/-, Rs. 2,00,000/- and Rs. 80,000/- on different dates against the services provided by him to the complainant. The applicant has not obtained any amount from him by way of mis-representation for providing him double amount. Whatever amount received from the complainant has been invested in shares, which is apparent from the documents submitted by the applicant. He further submits that his firm has not cheated the complainant and offence registered by the police is under Section 420/34 of the IPC which is triable by Judicial Magistrate First Class. Therefore, he prays that the applicant may be granted anticipatory bail.

5. On the other hand, learned State counsel submits that the applicant's firm Monetary Solution has been registered by the SEBI as investment advisor, therefore, he can advise his client only for investment but he cannot take money directly from his client, but in this case, aforesaid firm of the applicant has directly received huge amount from the complainant and allegedly invested it, but the complainant has not been provided any document in this regard by the firm of the applicant. He further submits that the employees of applicant's firm mis-represented the complainant and stated that he could earn double amount if he invests money in their firm Monetary Solution and under this mis-representation, they have received aforesaid amount from the complainant by cheating him. Therefore, learned court below has rightly denied to grant anticipatory bail. Therefore, he submits that anticipatory bail may not be granted to the applicant.

6. I have heard learned counsel for the parties and perused the material available on record.

7. This case has been registered by the police on 23-8-2019, despite that, it is not clear from the case diary as to what is the connection of applicant's firm with Krishnand Dave, in whose account the complainant has deposited Rs. 5,50,000/-, and stated about it in his case diary statement recorded on 7-3-2018. Case diary shows that complainant has transferred amount through bank

(Pay You Money) in merchant name of Monetary Solution, but the applicant has submitted documents which shows that the amount has been invested in the name of complainant. Offence under Section 420/34 of the IPC is triable by JMFC. Looking to the totality of the facts and circumstances of the case, I feel inclined to allow the application for grant of anticipatory bail to the applicant.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in a sum of Rs. 1,00,000/- with two sureties each of Rs. 50,000/- to the satisfaction of the officer arresting him or the concerned investigating officer. The applicant shall also abide by the following conditions:-

(i) that he shall make himself available for interrogation before the investigating officer as and when required;

(ii) that he 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/her from disclosing such facts to the Court or any police officer.

(iii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and

(iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial;

(v) that in case of change of address he will inform new address to investigating agency.

Certified copy as per rules.

Sd/-
(Shri N.K. Chandravanshi)
JUDGE

Pathak