

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 175 of 2021**

- Vijay Kumar Uike S/o Mehatar Ram, Aged About 52 Years R/o Quarter No. 27/A, K Pocket, Maroda Sector Bhilai, Tehsil And District Durg Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through S.H.O. Police Station, Bhilai Nagar, District Durg Chhattisgarh

---- Respondent

For Applicant	: Shri BP Singh, Advocate
For Respondent/State	: Shri Ajay Kumrani, PL
For Objector	: Shri SK Agrawal, Advocate

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board**31.03.2021**

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.32 of 2021 registered at Police Station Bhilai Nagar, Bhilai, Durg, CG for commission of offence punishable under Section 420/34 of IPC.
2. Case of the prosecution, in brief, is that, complainant-1, who is a retired employee of Bhilai Steel Plant, on persuasion of one Harish Chand Gayakwad and present applicant, has made investment of about 34 lakhs with AGM Corporation Company which is based at Nagpur but when he asked for return of investment, a cheque was issued by the AGM Company under the signature of Director, which became dishonored. Thereafter, the complainants Prahlad Singh Thakur and Smt Purnima Thakur have filed an application under Section 156(3) of CrPC before the Court of competent jurisdiction and upon considering the said application and hearing the parties, learned Magistrate has directed for registering FIR and submission of Final Report. Based on the direction of learned Magistrate, FIR was registered bearing number 32/2021 for offence punishable under Section 420/34 of IPC against Sushil Ramesh Kolhe,

Managing Director, AGM Corporation, Pankaj Ramesh Kolhe, Proprietor, Bharat Sahu, Harish Chand Gayakwad and present applicant, are working in Bhilai Steel Plant . Allegation against the present applicant is that he and co-accused Harish Chand Gayakwad visited house of Prahlad Singh Thakur (Retired DGM, Bhilai Steel Plant) and told him the LED networkng system run by the AGM Corporation which gives 4.17% profit in two years and 3% after 3 years. Complainant deposited Rs.1 lakh through cheque, Rs. 33 lakhs through RTGS and Rs.80,000/- through on-line payment mobile valet. After the due time, complainants did not get their profit nor the principal amount. Thereby, all of them, the Director of AGM Company Sushil Ramesh Kolhe, Proprietor Pankaj Ramesh Kolhe, Manager Bharat Sahu and their local Assistants Harish Chand Gayakwad and present applicant have cheated them.

3. Anticipatory bail application filed before the Court below was rejected by impugned order.

4. Shri BP Singh, learned counsel for the applicant submits that the applicant has been falsely implicated in the crime, he has nothing to do with AGM Company with which the complainant Prahlad Singh Thakur has made investment. He submits that housewives of number of employees of the Bhilai Steel Plant have joined as member with the AGM Company, based at Nagpur. Initially, all the investments made have been returned with some profit. He also submits that this investment is in network system, the person who becomes the first member makes other persons as member and investor for whom that member becomes

promoter. In registration form of complainant- 1 Prahlad Singh Thakur while becoming member and investor in the AGM Company, name of promoter is shown as Smt Purnima Thakur, who is wife of Prahlad Singh Thakur. He submits that the complainant has made investment on the basis of convincing efforts made by his wife who was initially investor under wife of applicant and subsequently became promoter. He further submits that wife of the applicant is only the member with AGM Company in the family, applicant has nothing to do and he has not even promoted the complainant to make investment.

5. Prahlad Singh Thakur and Purnima Thakur, filed written complaint before the Court of competent jurisdiction, that wife of present applicant Smt Veena Uike has taken membership of the Company and made investment. He further submits that wife of complainant after depositing money, has taken membership, and entered into an Agreement. The Agreement executed by Smt Purnima Thakur bears Seal of Notary of Nagpur, which is sufficient to show that wife of complainant visited the Office at Nagpur and only after satisfying herself, took membership and executed agreement. Wife of Prahlad Singh Thakur is his promoter, which shows that his investment in the Company is on the basis of his promotion by his wife, Smt Purnima Singh. He submits that applicant being employee of Bhilai Steel Plant, has been falsely implicated with ulterior motive, only to recover the amount invested by him in the Company. He submits that Criminal proceedings cannot be made as mode for recovery of any amount. He further submits that one of the co-accused, by name, Harish Chand Gayakwad has been enlarged on

anticipatory bail vide order dated 26.03.2021 in MCRCA-167 of 2021 and allegation levelled against the present applicant is similar in nature. In these circumstances, he prays that the applicant be extended benefit under Section 438 of CrPC.

6. On the other hand, Shri Ajay Kumrani, learned Panel Lawyer for the State while opposing the submissions of learned counsel for the applicant, submits that, complainant filed an application under Section 156(3) of CrPC before learned Judicial Magistrate and on the basis of direction issued by learned Judicial Magistrate, FIR was registered for the offence punishable under Section 420/34 of IPC against five persons including the present applicant and Harish Chand Gayakwad. There is specific allegation against the present applicant that he visited complainant's house and persuaded him to invest in the Company and only on that basis, complainant made investment of Rs.34 lakhs, which he received after retirement from his service. He further pointed out that when the complainant visited Office of AGM Company at Nagpur, co-accused Sushil Ramesh Kolhe had handed over a cheque of Rs.34 lakhs but that was dishonored, which shows the criminal intent of accused persons.

7. Shri SK Agrawal, learned counsel for the complainant adopting the submission of Shri Ajay Kumrani, learned Panel Lawyer submits that case of co-accused Harish Chand Gayakwad is on different footing. Wife of present applicant has acted as mediator for making investment in the Company, hence, applicant is not entitled for benefit under Section 438 of the CrPC.

8. I have heard learned counsel for the parties and also perused the case diary.

9. Taking into consideration nature of allegation levelled against the present applicant that Harish Chand Gayakwad and he visited house of complainant and persuaded him for making investment in the Company; perusal of Agreement clearly shows that Purnima Singh, wife of Prahlad Singh Thakur visited Nagpur Office of the Company and after taking membership, entered into an Agreement. Submission made by learned counsel for the applicant that Prahlad Singh Thakur was promoted by his wife Smt Purnima Singh for being member of the Company is not disputed by learned counsel for objector. There is no allegation against the present applicant that complainants handed over any amount for investment to applicant, but for the allegation that present applicant along with co-accused Harish Chand Gayakwad have visited the house of complainant and persuaded him to make investment in the Company. Also taking into consideration the facts and documents available in the case-diary as stated by learned State counsel and further that Prahlad Singh Thakur was promoted by his wife Smt Purnima Thakur, complainant is retired DGM of Bhilai Steel Plant and present applicant is also working in Bhilai Steel Plant, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicant.

10. Accordingly, the application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question, he shall be released on anticipatory bail by the Officer arresting him on his executing a personal bond in the sum of Rs.25,000/- (Rupees twenty-

five thousand) with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:

- (a) That the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- (b) That the applicant 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 to any Police Officer;
- (c) That the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (d) That the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma