

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 1657 of 2021

1. Dalidas Gupta W/o Kaushik Das Gupta Aged About 42 Years R/o Daldal Siwni Behind Electric Officer Police Station Pandri District Raipur Chhattisgarh
2. Mousmi Benarjee W/o Rajkumar Benarjee Aged About 32 Years R/o Dubey Colony Quarter No.11 Raipur Police Station Pandri District Raipur Chhattisgarh

---- Applicants

Versus

State of Chhattisgarh Through S.H.O Police Station Dalli Rajhara
District Balod Chhattisgarh

---- Non-Applicant

For Applicants	: Mr. B.P. Singh, Advocate
For Non-Applicant/State	: Mr. Vimlesh Bajpai, Government Advocate

(Proceedings through Video Conferencing)
Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

11.08.2021

- 1) The applicants have preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as they were arrested in connection with Crime No. 135 of 2016, registered at Police Station Dallirajhara, District Balod (C.G.) for the offence punishable under Sections 420, 406, 467, 468, 120-B of I.P.C., Sections 3, 4, 5 and 10 of Chhattisgarh Protection of Depositors Interest Act, 2005 and Section 58(F) of Reserve Bank of India Act, 1934.
- 2) Case of the prosecution is that, in the month of September 2013, complainant Anand Ram Rawte came to know that one company in the name of SPNJ Land Project and Developers India Company started working in village Chikhlakasa, Rajhara where Company double the amount deposited in 5½ years. He went to

the office situated at Tuli Complex, Village Chikhlakasa where he was informed that along with present applicants, Rakesh Anant, Rajkumar Banerjee to be Directors of the Company. They informed that upon depositing the amount, he will get the amount doubled within short period. They also make him understand that if he becomes agent of the Company, he will get commission on the collection and deposits made by him. Upon which, complainant started depositing the amount with the Company in his name and name of his wife and also collected the amount from other investors/depositors as Agent. Company appointed about 44 agents, all the agents have collected money and deposited with the Company, but later on, office situated at Tuli Complex, Village Chikhlakasa was closed in the month of May 2015. Complaint was lodged on 14.07.2016 by Anand Ram Rawte, based upon which, instant crime is registered for the aforementioned offences against the present applicants and co-accused Rakesh Anant and Rajkumar Banerjee.

- 3) Mr. B.P. Singh, learned counsel for the applicants would submit that initially aforementioned offences were registered including Section 10 of Chhattisgarh Protection of Depositors Interest Act, 2005. Registration and charge of offence under Section 10 of Chhattisgarh Protection of Depositors Interest Act, 2005 was challenged by way of filing an application. The application filed by present applicants and co-accused persons was allowed on 24.06.2021 and accused persons in the instant crime were discharged from the offence under Section 10 of Chhattisgarh Protection of Depositors Interest Act, 2005. He further submits

that copy of order is placed on record along with covering memo dated 28.07.2021. It is contended that by the same order, matter was sent to the Court of Chief Judicial Magistrate, Balod for trying the offences under Section 420, 467, 468, 406, 120-B of IPC and Section 3, 4, 5 of Chhattisgarh Protection of Depositors Interest Act, 2005 and Section 58(F) of the Reserve Bank of India Act, 1934. It is further contended that the offences now pending consideration against the applicants are triable by the Judicial Magistrate, till date, charges have not been framed. Prosecution has en-listed 99 witnesses to prove the charges against the applicants. Applicants are in jail since 02.08.2015 and thereby they have completed more than three years of pre-trial detention. He argued that co-accused Rakesh Anant has been enlarged on regular bail in MCRC No.7790 of 2020 vide order dated 22.01.2021. It is further pointed out that looking to the period of COVID-19 pandemic and list of prosecution witnesses, trial may take some time, hence, applicants who are female members may be enlarged on regular bail.

- 4) On the other hand, Mr. Vimlesh Bajpai, learned Govt. Advocate opposing the submissions made by learned counsel for the applicants would submit that applicants along with other accused persons have defrauded the villagers and collected Rs.9,95,24,331/-. Thereafter, closed the Company and ran away. He further submits that co-accused Rakesh Anant was an employee of the Company whereas present applicants are Directors of the Company, hence, case of present applicants is different from Rakesh Anant. However, he does not dispute that

vide order dated 24.06.2021, Special Court, Balod has discharged the applicants from the offence under Section 10 of Chhattisgarh Protection of Depositors Interest Act, 2005. Upon putting specific query, Shri Bajpai submits that applicants were arrested on 02.08.2018 in the instant crime.

- 5) I have heard learned counsel for the parties.
- 6) Taking into consideration the facts and circumstances of the case, nature of allegations, particularly the fact that applicants have been discharged from the offence under Section 10 of Chhattisgarh Protection of Depositors Interest Act, 2005 by the Special Court, Balod vide order dated 24.06.2021, applicants were arrested on 02.08.2015, offences registered against the present applicants are now triable by the Magistrate, prosecution has en-listed 99 witnesses and trial is yet to start, without commenting anything on the merits of the case, I am inclined to release the applicants on regular bail.
- 7) Accordingly, the application is allowed and it is directed that the applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one surety in the like sum to the satisfaction of the trial Court concerned on the conditions that :
 - a) the applicants shall not leave the State territory without prior permission of the trial Court concerned.
 - b) they shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.

c) they shall not, in any manner, tamper with the prosecution witnesses.

d) if the applicants are found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-

(Parth Prateem Sahu)
Judge

Yogesh