NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 5173 of 2021

Anil Kumar Poddar S/o Lt. Bindeshwari Poddar, Aged About 47 Years, R/o Shastri Nagar, Kon Nagar, P.S. Uttar Para, District Hoogly, West Bengal.

---- Applicant

Versus

State of Chhattisgarh Through The Station House Officer, Aarakshi Kendra Ambikapur, District Sarguja Chhattisgarh.

---- Non-applicant

For Applicant	: Shri Rohit Sharma, Advocate
For Non-applicant/State	: Shri Gurudev I. Sharan, Govt. Advocate

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Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

25.10.2021

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 06.06.2021 in connection with Crime No.123 of 2016 registered at Police Station Aarakshi Kendra Ambikapur, District Sarguja (C.G.) for commission of the offence punishable under Sections 420, 34 of Indian Penal Code, Sections 4, 5, 6 of Money Circulation Act, 1978 and Sections 4, 6, 10 of Chhattisgarh Protection of Depositors Interest Act, 2005.

2. Case of the prosecution is that, applicant being one of the Director of M.I. Health Care Private Limited which collected money from several persons through agents appointed by Company. The Company which is based at Kolkata has opened a branch office at Ambikapur, Chhattisgarh, collected money from the residents of near by places to branch office at Ambikapur, Chhattisgarh from 2011 up till 2013. After 2013, branch office of Company was

closed. Agents approached to officers/employees of Company for refund of money, which was not return and thereafter, report was lodged in the month of February 2016, based upon which, First Information Report was registered on 28.02.2016. The applicant was arrested on 06.06.2021 in the aforementioned crime.

3. Shri Rohit Sharma, learned counsel for the applicant would submit that Police after completion of investigation submitted charge-sheet before the Court of competent jurisdiction on 30.07.2021 including commission of offence under Sections 4, 6 and 10 of the Chhattisgarh Protection of Depositors Interest Act, 2005 along with other offences. The allegation of commission of crime is from 2011 to 2013 only. The act has been framed in the year 2005, but it was notified in the gazetted only on 23.07.2015, hence Chhattisgarh Protection of Depositors' Act would not be applicable to the facts of the case and no offence would be made out under the said act against the applicant. He further contended that applicant was not one of the Director as share holder, but he was appointed as Director on 02.11.2011. After working for some time as Director in the Company, he submitted his resignation on 27.06.2013, which was accepted and recorded on 10.12.2013. The applicant has not committed any offence as alleged against him. He also submits that as charge-sheet has been filed where in there are as many as 85 enlisted witnesses and trial may take some time. Applicant is in jail since 06.06.2021. In support of his contention, he places his reliance on the verdict of Supreme Court

in case of **Sanjay Chandra v. Central Bureau of Investigation** reported in **(2012) 1 SCC 40**.

4. On the other hand, Shri Gurudev I. Sharan, learned Government Advocate representing the State while opposing the submissions made by learned counsel for the applicant would submit that as per information collected by Investigating Agency from SEBI and RBI, Company has not made any application before the competent authority seeking permission of engaging itself in the business of accepting deposit of money. SEBI replied to the query vide its letter dated 09.07.2019 and RBI replied the query vide letter dated 17.07.2019. The complainant is one of the Agent appointed by Company for collecting money from the person who along with other have collected money and deposited with the branch office of Company at Ambikapur, Chhattisgarh. In the statement, they have named the applicant also along with others. The Statement of witnesses were recorded in the year 2016 i.e. 01.03.2016 immediately after lodging of registration of First Information Report, hence, involvement of the applicant is very much there. He further submits that applicant is involved in cheating to depositors because when there is no permission and authorization with the Company to collect money from the investors as deposit then they are well aware that they are doing illegal work by showing false scheme of returning of doubled the amount deposited by depositors, hence, applicant is not entitled for the benefit under Section 439 of Cr.P.C. He also submits that in the statement of witnesses, it has further come that after

leaving the Company, applicant has formed other group of persons and started collecting money from other region including Singrauli, Madhya Pradesh also.

5. I have heard learned counsel for the parties.

6. Taking into consideration the facts and circumstances of the case, submissions made by learned counsel for the respective parties, fact of appointment of applicant as Director has not been disputed, further statement of complainant and others that branch office of Company has collected about, Rs.21 Lakhs from residents of Chhattisgarh, particularly residence of District Surguja, I do not find it to be a fit case to enlarge the applicant on bail. Accordingly, bail application is dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Yogesh