

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.7842 of 2020

Neeta Shrivastava, W/o Amit Kumar Shrivastava, aged about 42 years, R/o
 Radhika Nagar, Maytri Vihar, Bhilai, Supela, P.S. Supela, District Durg (C.G.)
 (In Jail)
 ---- Applicant

Versus

State of Chhattisgarh, Through SHO, Police Station Supela, District Durg
 (C.G.)
 ---- Non-applicant

 For Applicant: Mr. B.P. Singh, Advocate.
 For Non-applicant: Mr. Jitendra Pali, Deputy Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

17/05/2021

1. Proceedings of this matter have been taken-up through video conferencing.
2. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing her on regular bail during trial in connection with Crime No.596/2015, registered at Police Station Supela, Distt. Durg, for the offence punishable under Sections 420, 409, 120B read with Section 34 of the IPC; Section 10 of the Protection of Depositors Interest Act; Section 45 of the Reserve Bank of India Act; and Sections 3, 4, 5 & 6 of the Chit Fund Act.
3. This is the second bail application filed on behalf of the applicant for grant of regular bail, first bail application was dismissed as withdrawn on 11-4-2016.

4. Case of the prosecution, in brief, is that the present applicant being Director of a Chit Fund Company along with other Directors of the Chit Fund Company circulated an investment scheme in the public asking the investors to invest in the company extending false assurance of high return / double of the investment within a short period and collected an amount of ₹ 20 crores from large number of investors in the hope of getting high return as assured, but the accused Directors had no intention to return money to the investors and the amount collected by way of investment was utilised for the purposes of purchasing land, houses and real estate properties in their own names and larger portion of the property so acquired was transferred to a developer namely, Maa Sharda Developers, and thereby the applicant along with other co-accused have committed the aforesaid offence.
5. Learned counsel for the applicant submits that the applicant has not committed any offence, she has been falsely implicated in the case, she happened to be one of the Directors of the Chit Fund Company and she has been arrested on 29-9-2015, charge-sheet has already been filed and more than five years five months have elapsed, but till date trial has not concluded. Out of 109 witnesses, only 22 witnesses have been examined. Trial is likely to take some more time, as the courts are closed on account of Corona pandemic situation and the applicant is completing around six years of imprisonment in jail. Co-accused Smt. Pooja Tandon has been granted bail by this Court on 12-4-2021 and another co-accused Smt. Sindhu Singhare has also been granted bail by the Supreme Court on 23-7-2018, therefore, the present applicant should also be granted bail.

6. On the other hand, learned State counsel opposes the bail application, but submits that co-accused Smt. Pooja Tandon has been granted bail by a coordinate Bench of this Court on 12-4-2021.
7. I have heard learned counsel for the parties and considered their rival submissions made herein-above and also went through the material available on record with utmost circumspection.
8. The coordinate Bench of this Court while considering the bail application of Smt. Pooja Tandon on 12-4-2021 in M.Cr.C. No.7838/2020 (Smt. Pooja Tandon v. State of Chhattisgarh), while enlarging her on bail, made following observation in paragraph 5: -

“5. The applicant is one of the Directors in the company. The allegation is that the Directors, including the applicant, collected huge amount from the investors on the assurance of giving high return / doubling the return which lured large number of investors to invest in the company. It is further alleged by the prosecution and material which has been collected during investigation, out of the fund so generated, huge property was purchased and certain funds were also said to be diverted for development of housing project etc.

The applicant is alleged to have committed offence under Section 420, 409, 120-B of IPC and also under Section 10 of the Act of 2005, Section 45 of RBI Act and Section 3, 4, 5, 6 of Chit Fund Act. However, at the same time, it has to be seen that the applicant was arrested way back on 03/10/2015, investigation was complete and charge sheet was filed long back. The trial of the applicant is going on since last more than 5 years and the same has not been concluded till date. Learned State counsel could not dispute the averments made in the application that till the date of filing of application for grant of bail on 16/10/2020, out of 109 witnesses, only 20 witnesses were examined. Even till date, no further development could be brought to the notice of the Court to show that large number of witnesses have already been examined and there is likelihood of early conclusion of trial. Nothing could be brought on record by the State that the applicant is responsible for delay in trial. The speed with which the trial is going on and number of witnesses who have been examined for the last 5 years, there is no likelihood of early conclusion of trial.

Though learned State counsel stated that in case of grant of bail, the applicant may influence the prosecution witnesses and she is likely to abscond, we do not find any material from the records and the case diary to substantiate such apprehension. The applicant is a lady Director in the company and there is nothing to show that she is likely to abscond. Despite seriousness of the allegations and the punishment which could be imposed, long detention during trial which is more than half of the sentence which could be awarded under Section 10 of the Act of 2005, at this stage, the applicant is entitled to be released on bail. One of the co-accused and other Directors of the company Smt. Sindhu Singhare, who, on the basis of allegation of material collected during investigation against her, appears to be identically placed as the present applicant, in so far as their role is alleged as Director in the company. Smt. Sindhu Singhare has been granted bail by the Hon'ble Supreme Court in Special Leave to Appeal (Cri.) No. 4239/2018 (*Deepak Singhare and anr. v. The State of Chhattisgarh*) on consideration of her being aged about 42 years and mother of two children in the background that she had remained in jail for about three years. The present applicant is in jail since 5 years and 5 months approximately by now."

9. Considering the finding recorded by the coordinate Bench of this Court, as the case of present applicant is said to be similar to that of co-accused Smt. Pooja Tandon, other Director of the Company, who has been enlarged on bail, and that of the other co-accused Smt. Sindhu Singhare, who has been granted bail by the Supreme Court in Special Leave to Appeal (Cri.) No.4239/2018 (*Deepak Singare and another v. The State of Chhattisgarh*), and the present applicant is in jail for approximately six years, she is aged about 42 years and her case being similar to that of co-accused Smt. Pooja Tandon and Smt. Sindhu Singhare, I consider it a fit case for grant of bail to the present applicant. Accordingly, the application is allowed.
10. It is, therefore, directed that the applicant be released on bail on her furnishing a personal bond in the sum of ₹ 1,00,000/- (Rupees one lakh only) with one surety in the like sum to the satisfaction of the

concerned Court for her appearance as and when directed. She shall not leave the district without prior permission of local court and shall not make any attempt to influence the witnesses or tamper the evidence.

11. Consequently, the application for urgent hearing and the application for hearing during summer vacation stand disposed of.

Sd/-
(Sanjay K. Agrawal)
Vacation Judge

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