NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8004 of 2020

- Abhishek Kumar S/o Subodh Kumar Sharma Aged About 28 Years Caste Bhumihar Bramhan, R/o Village Arka, Post Amba, P.S. Kutumba, District Ourangabad (Bihar)

---- Applicant

Versus

- State Of Chhattisgarh Through- Police Station City Kotwali Ambikapur, District-Surguja, Chhattisgarh

---- Respondent

For Applicant	:	Shri Tarun Dadsena, Advocate
For State	:	Shri Mateen Siddiqui, Dy.A.G.
For Objector	:	Shri Rajat Agrawal, Advocate

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

11/02/2021

Heard.

1. The applicant has been arrested in connection with Crime No.389/2020 registered at Police Station – City Kotwali, Ambikapur, District – Surguja (C.G.) for alleged commission of offences under Section 419, 420, 120-B of IPC and Section 10 of Protection of Depositors Interest Act, 2005 and Section 66-D of I.T. Act.

2. Prosecution case is that one Ashok Acharya, Director of Wish Wallet Company floated a lucrative scheme of inviting investments on the assurance of giving very high return within a very short period. It is alleged that in this manner and on the basis of floating these lucrative scheme, Wish Wallet Company, through its Director, Ashok Acharya added about 23,000 investors and collected approximate Rs.5 to 6 crores. It is further alleged that thereafter, Wish Wallet Company did not repay the amount as assured to the investors and thus, committed cheating. As far as present applicant is concerned, it is alleged that present applicant is the proprietor of one Payaro Company which was engaged by the main accused – Ashok Acharya, Director of Wish Wallet

Company to collect money from the investors through applicant's company and transfer it to the account of the main accused – Ashok Acharya on payment of commission for such facility.

3. Learned counsel for the applicants would argue that as far as present applicant is concerned, he is neither the person who has floated the scheme nor is the person who retained the investment money of the investors. He was only engaged by the main accused Ashok Acharya for facilitating collection work and to transfer it to the account of the main accused on commission basis. It is argued that if the main accused has committed cheating with the investors, present applicant is nowhere involved merely because he acted as an agent to collect money and transferred it to the account of the main accused. It is further submitted that investigation is complete, charge sheet has been filed and the applicant is in jail since 02/10/2020. It is also submitted that though the bail application of the main accused Ashok Acharya has been rejected, bail application of other accused who acted as agents have been granted bail by this Court vide order dated 20/11/2020 filed by co-accused Santosh Kumar Vishwakarma, Sharda Jaiswal and Dineshwar Prasad Jaiswal on the consideration that they are working in the capacity of agent only and they have also made complaints against the company. Therefore, at this stage, present applicant is also entitled to grant of bail on parity because he is also involved as a commission agent and facilitator in the case without retaining money of the investors in his hand but transferred it to the account of the main accused Ashok Acharya i.e. Director of Wish Wallet Company.

4. On the other hand, learned State counsel and counsel for the objector oppose bail application and submit that the act of cheating involved not only the main accused Ashok Acharya but number of assistants working as agents. He would submit that the material contained in the charge sheet *prima facie* shows that Wish Wallet company had engaged the present applicant as facilitator who used to collect money from the investors and transfer it to the account of the main accused – Ashok Acharya. The main accused did not repay the amount as assured to the investors and therefore, in the act of cheating, present applicant is also *prima facie* involved. It is further submitted that this Court has rejected bail application of Ashok Acharya though granted bail to other accused taking into consideration that they merely acted as agents whereas the role of the present applicant is much more in magnitude in so far as association with the main accused is concerned.

5. On *prima facie* consideration, it is found that present applicant is involved in the alleged offence on the ground that the main accused Ashok Acharya, Director of Wish

Wallet Company has floated a lucrative scheme of high return of investment which lured the investors to invest money in the scheme. For the purposes of collection of money from the investors, present applicant was engaged by main accused as facilitator and according to the case of the prosecution itself, the applicant acted as agent of the main accused who used to collect money from the investors and then transferred it to the account of the main accused and in turn, he would get commission for acting as a facilitator. Therefore, his case is similar to the other accused who have been granted bail on the consideration that they were working in the capacity as agents. It is not a case that present applicant, after collecting amount from various investors, pocketed himself or he was involved in floating the scheme along with the main accused. Therefore, in that view of the matter and considering that investigation is complete and charge sheet has been filed, I am inclined to grant bail to the applicant.

6. Accordingly, the application is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- along with one local surety for the like amount to the satisfaction of the Trial Court on the condition that -

a) He shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

b) He shall not make any attempt to tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Deepti