Crl.O.P.No.27195 of 2022

G.K.ILANTHIRAIYAN, J.

The petitioner, who apprehends arrest at the hands of the respondent police for the offences punishable under Sections 420, 406 and 120B IPC, r/w Section 3 and 5 of Banning of Unregulated Deposit Schemes Act, 2019 and Section 58 of Reserve Bank of India Act, 1934, in Crime No.7 of 2022, seeks anticipatory bail.

2. The case of the prosecution is that the Deputy Superintendent of Police, Economic Offence Wing, Chennai, has suo motu registered the present complaint as against the petitioner and other accused alleging that the first accused Company viz., M/s. Aarudhra Gold Trading Private Limited has collected deposits from the general public with false promise of praying exorbitant interest at the rate of 10% to 30% per month. Further, it is alleged that the Company, in its official website, has promised incentives of gold coin and payout at every month, referral income of 2% to 5 Lakhs deposits at various levels. The Managing Director of the first accused Company failed to produce any details of the

deposited money, the details of revenue generated by the Company to give exorbitant interest to the depositors and the license to collect deposits from the public from the regulatory authorities including RBI. Hence, the complaint.

3. The learned counsel for the petitioner would submit that though the petitioner was one of the Director of the first accused Company, he is the person who found illegalities committed by the Managing Director one Rajasekar and as such he lodged a complaint through Whatsapp, to the higher Police officials. It happened even before registration of FIR, therefore, he resigned from the Company long back and also filed required statutory reports and documents with the Registrar of Companies, which is approved by Ministry of Corporate Affairs, Government of India.

4. The learned counsel for the petitioner would further submit that the first accused Company is running profitability and they have not cheated any public till today, the respondent without conducting any detailed enquiry registered suo motu complaint only to harass the accused

persons by using back door method. There is no offence under Section 58B of RBI Act and in any event, there is a bar in terms of Section 58E of RBI Act since cognizance of an offence under Section 58B can be taken only on a complaint given by the authorised officer of the RBI therefore, the respondent has no role to play in this crime. Hence, he prays for grant of anticipatory bail to the petitioner.

5. Per contra, the learned Additional Public Prosecutor submitted that there are totally more than 14 accused in this case in which the petitioner is arrayed as A14. The petitioner is one of the Directors of the first accused Company and still his name reflects in the Registrar of Companies. Above 7.14 crores have been transferred from the first accused Company to the Bank accounts of the petitioner herein in a suspicious manner. The properties, which he owned, is purchased from the illegally amassed monies which belong to the innocent depositors.

6. The following transactions will be a testimony to his involvement in this fraudulent activity.

Sl.No.	Bank	Account No.	Date	Description	Debit
1.	KOTAK MAHINDRA BANK LIMITED	4064061992	25.01.2022	FUND TR TO K HARISH	49,00,000
2.	KOTAK MAHINDRA BANK LIMITED	4064061992	25.01.2022	FUND TR TO K HARISH	49,00,000/-
3.	KOTAK MAHINDRA BANK LIMITED	4064061992	19.01.2022	FUND TR TO K HARISH	49,00,000
4.	KOTAK MAHINDRA BANK LIMITED	4064061992	28.12.2022	FUND TR TO K HARISH; 2314330743	49,00,000
5.	KOTAK MAHINDRA BANK LIMITED	4064061992	06.12.2022	FUND TR TO K HARISH	50,00,000
6.	KOTAK MAHINDRA BANK LIMITED	4064061992	20.10.2021	Sent RTGS KKBKR520 21102000830881/K HARISH/FIN(Ref#197/000237401441	37,00,000
7.	KOTAK MAHINDRA BANK LIMITED	4064061992	20.10.2021	Sent RTGS KKBKR520 21102000828906/K HARISH/FIN(Ref#281/000237401328	30,00,
8.	KOTAK	4064061992	20.10.2021	FUND	37,00,000

	MAHINDRA BANK LIMITED			TRANSFER TO K HARISH	
9.	KOTAK MAHINDRA BANK LIMITED	4064061992	13.10.2021	FUND TRANSFER TO K HARISH	45,00,000
10.	KOTAK MAHINDRA BANK LIMITED	4064061992	18.08.2021	TRF TO K HARISH	39,00,000
11.	FINCARE SMALL SAVINGS BANK	21200000002734	04/08/2021	RTGSOUT, RTGS/FSFBR52021080400000075/K HARISH/KKBK000	20,00,000.00
12.	FINCARE SMALL SAVINGS BANK	21200000002734	04/08/2021	RTGSOUT, RTGS/FSFBR52021080400000116/K HARISH/KKKBK0008773/2314330743/Chq.000205	14,00,000.00
13.	FINCARE SMALL SAVINGS BANK	21200000002734	04/10/2021	RTGSOUT, RTGS/FSFBR520210804000000212/K HARISH/KKBK000	10,00,000.00
14.	FINCARE SMALL SAVINGS BANK	21200000002734	26/10/2021	RTGSOUT, RTGS/FSFBR52021080400000371/K HARISH/K	82,00,000.00

				KBK0008773/2314330743/Chq.	
15.	FINCARE SMALL SAVINGS BANK	21200000002734	09/11/2021	RTGSOUT, RTGS/FSFBR52021110900000067/KHARISH/KKBK000	19,00,000.00
16.	FINCARE SMALL SAVINGS BANK	21200000002734	09/11/2021	RTGSOUT, RTGS/FSFBR52021110900000068/KHARISH/KKBK000	20,00,000.00
17.	FINCARE SMALL SAVINGS BANK	21200000002734	17/11/2021	RTGSOUT, RTGS/FSFBR52021111700000348/KHARISH/KKBK000	10,00,000.00
18.	FINCARE SMALL SAVINGS BANK	21200000002734	18/11/2021	RTGSOUT, RTGS/FSFBR52021111800000030/KHARISH/KKBK000	10,00,000.00
19.	FINCARE SMALL SAVINGS BANK	21200000002734	11/02/2021	RTGSOUT, RTGS/FSFBR52022021100000150/KHARISH/KKBK000	30,00,000.00
20.	FINCARE SMALL SAVINGS BANK	21200000002734	18/03/2021	RTGSOUT, RTGS/FSFBR52022031800000037/KHARISH/K	15,00,000.00

				KBK000	
21.	FINCARE SMALL SAVINGS BANK	2120000000 2734	27/04/2021	RTGSOUT, RTGS/FSFB R520220427 00000014/K HARISH/K KBK000	15,00,000.00
22.	FINCARE SMALL SAVINGS BANK	2120000000 2734	27/04/2021	RTGSOUT, RTGS/FSFB R520220427 00000137/K HARISH/K KBK000877 3/231433074 3	15,00,000.00
23.	FINCARE SMALL SAVINGS BANK	2120000000 2734	16/05/2021	RTGSOUT, RTGS/FSFB R520211109 00000168/K HARISH/FD RL0001642/ 1642020000 4770	20,00,000.00
TOTAL					**7,14,00,000**

7. He further submitted that the petitioner recently sold out his property and a luxury car through his henchmen which have been acquired from the deposits of innocent general public and he shifted his wealth to a safer place to escape from the legal actions which is not traceable by the respondent. Therefore, custodial interrogation of the

petitioner is very much required in this case. Hence, he vehemently opposed to grant anticipatory bail to the petitioner.

8. It is seen that this Court by an detailed order, dismissed the earlier anticipatory bail petitions filed along with other accused persons in Crl.O.P.No.16037 of 2022 by an order dated 29.07.2022. The learned counsel for the petitioner would submit that the petitioner is not a Director of the first accused Company, he resigned his Directorship long back and submitted its documents to the Registrar of Companies. Further, he did not even produce any piece of evidence to show that he was relieved from the Directorship.

9. That apart, on perusal of records revealed that the petitioner is still reflected in the records of the Registrar of Companies. That apart, he diverted the Companies' money, which was acquired from the general public, to his personal account by the aforesaid transactions. There are totally 16 accused in this case in which the petitioner is arrayed as A14, the Company is arrayed as A1 and A6 is the one of the Director of the

first accused Company. All the accused had collected deposits from the general public under various schemes on false promise of paying exorbitant interest viz., at the rate of 10% to 30% per month and had collected Rs.2,400 crores from 1,09,255 depositors. Further, there are eight Directors of whom the petitioner is one of the founder Directors of M/s. Aarudhra Gold Trading Private Limited, which is arrayed as A1. They conspired among themselves and without obtaining mandatory permission, had started to collect deposits from the general public under a false promise of exorbitant interest. Therefore, the custodial interrogation of the petitioner is very much required in this case and there is absolutely no change of circumstances to consider the second anticipatory bail application. Therefore, this Court is not inclined to grant anticipatory bail to the petitioner.

10. Accordingly, the criminal original petition stands dismissed.

15.11.2022

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G.K.ILANTHIRAIYAN, J.

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Crl.O.P.No.27195 of 2022

15.11.2022