

(2020) 08 CHH CK 0002

In the Chhattisgarh High Court

Case No : Misc.Criminal Case (Anticipatory Bail) MCRCA No. 1680, 1681, 1686, 1788, 1789, 1790, 1791, 1792, 1793, 1795, 1796, 1797, 1921, 1922, 1927, 1929, 1930, 1932, 1936, 1945, 1948, 1949, 1971, 1974, 1976, 1977, 1981, 1983, 2072, 2078, 2094, 2150 Of 2019

Mulchand Dewangan And Ors

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision : 10-08-2020

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 384, 406, 420, 467, 468, 471
Prize Chits And Money Circulation Schemes (Banning) Act , 1978 — Section 3, 4, 6
Chhattisgarh Nikshepika Ke Hito Of Samrakshan Adhiniyam, 2005 — Section 10
Shodhan Vivaran Adhiniyam, 2002 — Section 3, 4
Code Of Criminal Procedure, 1973 — Section 156(3), 438
Chhattisgarh Protection Of Depositor's Interest Act, 2005 — Section 10, 15
Chhattisgarh Protection Of Depositors Rules, 2005 — Section Rule 5

Citation : (2020) 08 CHH CK 0002

Hon'ble Judges : Prashant Kumar Mishra, J

Bench : Single Bench

Advocate : Shakti Raj Sinha, Alok Bakshi, Devershi Thakur

Final Decision : Allowed

Judgement

@JUDGMENT-JUDGMENT

1. The aforesaid MCrCs are being disposed of by this common MCRCA No. 1680 of 2019 & other connected matters order as they are arising out of

Crime Nos.40/2019, 79/2019, 366/2019, 168/2019, 156/2019, 155/2019, 411/2019, 301/2019, 304/2019, 305/2019, 470/2019, 154/2019, registered in

Police Stations : Daurpur, Darima, Ambikapur, Ambagarh Chowki, Ghumka, Lalbag, Basantpur, Khairagarh, Rajnandgaon Kotwali, Udaipur,

Gandhinagar, Lundra, Dhorpur, Kotwali Ambikapur, Civil and Revenue Districts Ambikapur-Surguja, Rajnandgaon for offence under Sections 420,

406, 467, 468, 471, 120-B, 384 of the IPC; under Sections 3, 4, 6 of the Prize Chits and Money Circulation Schemes (Banning) Act, 1978; Section 10

of the Chhattisgarh Nikshepika Ke Hito of Samrakshan Adhiniyam, 2005 and Sections 3, 4 of the Arth Shodhan Vivaran Adhiniyam, 2002.

2. These bail applications have been filed by set of accused persons against whom large number of complaints have been filed by such depositors who have invested in the schemes of Anmol India Group Company.

3. Admittedly, in one such similar crime the Coordinate Bench of this Court has already allowed anticipatory bail vide its order dated 19.09.2019 in

MCRCA No.1177/2019. A copy of the same has been placed on record as Annexure A-8.

4. Learned Additional Advocate General and Shri Devershi Thakur, learned counsel for the objector would submit that exercise of power under

Section 438 Cr.P.C. is barred under Section 15 of the Chhattisgarh Protection of Depositor's Interest Act, 2005 MCRCA No. 1680 of 2019 & other

connected matters (hereinafter referred to as 'the Act, 2005'), therefore, these anticipatory bail applications are not maintainable.

5. True it is that Section 15 of the Act, 2005 creates a bar for exercising power under Section 438 Cr.P.C. but it is to be seen that the Coordinate

Bench has specifically dealt with this submission in an elaborate manner in paragraphs 5, 8 and 9 of its order. These paragraphs of the order passed

by the Coordinate Bench are reproduced herein:

5. In reply counsel for the applicants submits that counsel for the objector has conducted professional misconduct, he himself is the counsel for these

applicants in writ petition No.401/2017, therefore, his objection should not be entertained by this Court. It is also submitted that as the case under

Section 10 of C.G. Protection of Depositors Interest Act, 2005 is not made out, therefore, the bar under Section 15 of the Act is not applicable. It is

also submitted that under Rule 5 of C.G. Protection of Depositors Rules, 2005 provides that on receipt of complaint from the depositors or otherwise

the Competent Authority may initiate such inquiry as he may deem necessary to satisfy himself as to whether or not any financial establishment has

fraudulently defaulted. No such complaint has been filed before such Competent Authority by the investors, therefore, direct entertainment under

Section 156 (3) of Cr.P.C. by the Special Court is erroneous. Hence, it is prayed

that the applicants be granted anticipatory bail.

8. Considered the submissions made and the contents of the case diary. On perusal of Section 10 of the C.G. Protection of Depositors Interest

MCRCA No. 1680 of 2019 & other connected matters Act, 2005, it is found that penal clause for defaults by financial establishments and the person,

who are to be held responsible are the promoter, partner, director manager or any other person or an employee responsible for the management of or

conducting of the business or affairs or of such financial establishment. There is no mention of any Core Committee or person of such Committee in

this provision. Therefore, the applicability of Section 15 of the C.G. Protection of Depositor's Interest Act, 2005 in this case is a question, which may

be answered in the investigation, which may made by the police. From the perusal of the FIR, it is not found that these applicants gave direct

inducement to any person to make any deposit in the fraudulent schemes and also for the reason that in similar other cases, the agents, who had

worked for this company, have been granted anticipatory bail by this Court, hence for these reasons, this Court is inclined to extend the benefit of

Section 438 of Cr.P.C. to the applicants.

9. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.

6. Since admittedly, the nature of allegations in all the crime numbers are similar, this Court is inclined to allow all the bail applications for releasing the

applicants on anticipatory bail.

7. Accordingly, the applications are allowed and it is directed that in the event of arrest of the applicants, they shall be released on anticipatory bail on

each of them executing a personal bond for a sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the arresting officer with the

following conditions:-

MCRCA No. 1680 of 2019 & other connected matters (I)they shall make themselves available for interrogation by a police officer as and when

required;

(ii)they shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade

him from disclosing such facts to the Court or to any police officer;

(iii) the applicants shall not influence the witnesses during pendency of the trial.