(2015) 05 MP CK 0006

In the Madhya Pradesh High Court

Case No : M.C.R.C.-6996-2015

Shiv Raj Sharma APPELLANT

Vs

The State of Madhya Pradesh RESPONDENT

Date of Decision : 13-05-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 173(8), 439, 439(2), 482
Madhya Pradesh Nikshepakon Ke Hiton Ka Sanrankshan Adhiniyam, 2000 — Section 6
Penal Code, 1860 (IPC) — Section 409, 420

Citation : (2015) 05 MP CK 0006

Hon'ble Judges : G.S. Solanki, J

Bench : Single Bench

Advocate : Vijay Manglam and Rohit Sohgaura, for the Appellant; Divesh Jain, Government Advocate and Sumit Raghuvanshi, Advocates for the Respondent

Final Decision : Dismissed

Judgement

G.S. Solanki, J.

1. This is the first application filed by the applicant under Section 439 of the Cr.P.C. for grant of bail.

2. The applicant is in custody since 2.11.2014 in connection with Crime No. 72/2012 registered by S.T.F., Jehangirabad, Bhopal for the offences punishable under Sections 420, 409 of the IPC read with Section 6 of the M.P. Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam, 2000.

3. As per prosecution, it is alleged that the applicant being the Chief Executive Officer of Eve Miracles Jewels Limited induced complainant Kailash Narayan Jat by stating that he would get growth of 10% on the booking amount for purchasing the gold. Due to aforesaid inducement, the complainant invested Rs. 11,11,282/- and his other nearest friends like Deepak, Bhimraj Singh, Nagendra Singh, Shadab Khan, Santosh Malviya, Balram Pawar etc. had also deposited a huge amount in aforesaid Eve Miracles Jewels Limited. Initially some amount was

paid as a growth amount to the complainant and his other companions, thereafter the complainant insisted the applicant to return his amount of Rs. 11,11,282/- then the applicant had only returned a sum of Rs. 1,48,212/- and remaining amount has not been returned by the applicant. It is further alleged that the applicant has not returned the amount of other persons and deceived the complainant and other persons and thereby committed cheating. During investigation it has been found that the applicant has fraudulently obtained the amount to the tune of Rs. 7,40,77,926/- by deceiving the complainant as well as 4766 other investors. The investigation against other co-accused persons is still pending under Section 173(8) of the Cr.P.C. and till today it has been found that the applicant has deceived an amount to the tune of Rs. 139 crores from the different investors.

4. Learned counsel for the applicant has submitted that the applicant has been falsely implicated in this case. Initially the applicant was released on bail by the trial Court vide order dated 13.3.2012, thereafter an application under Section 439(2) of the Cr.P.C. was filed by STF, Bhopal, which was allowed and the bail granted to the applicant was cancelled by the trial Court and the applicant was re-arrested on 2.11.2014. Being aggrieved by the order of cancellation of bail, the applicant filed a petition under Section 482 of the Cr.P.C. before this Court, which was dismissed with liberty to the applicant to file fresh application under Section 439 of the Cr.P.C. for grant of bail after mentioning additional grounds before the trial Court. The applicant filed such application before the trial Court, which has been dismissed by the trial Court. It is further submitted that the charge sheet has been filed by the respondent before the trial Court wherein it has been mentioned that there were only 675 investors and total amount involved was to the tune of Rs. 1,13,63,961/-. It is further submitted that the Apex Court granted bail to the applicant in Crime No. 13/2013 wherein the allegation against the applicant was of similar nature. The applicant is in custody and trial would take considerable time to conclude, therefore, he be released on bail.

5. Learned counsel for the respondent and the objector have opposed the application and submitted that the facts of Crime No. 13/2013 are not similar to the instant crime wherein the applicant had acted as promoter and commission agent of Oriental Insurance Company Limited and at that time it was not on record that the applicant has deceived about 4766 investors by dishonestly inducing them to invest in this Eve Miracles Jewels Limited and obtained the amount to the tune of Rs. 139 Crores. Considering the involvement of the applicant in the instant crime, the applicant is not entitled to be released on bail, therefore, this application is liable to be dismissed.

6. I have perused the case diary. It is true that the charge sheet has been filed wherein it has been mentioned that there were only 675 investors and amount involved was to the tune of Rs. 1,13,63,961/- but at the same time it reveals from the case diary that co-accused of the applicant are still absconding and the investigation is open under Section 173(8) of the Cr.P.C. During investigation, it

has been found that there were about 4766 investors and the applicant had induced them to deposit amount to the tune of Rs. 139 Crores. It also reveals from the case diary that being the CEO/Director of Eve Miracles Jewels Limited, the applicant not only cheated various poor investors but also gave incentive to other persons. Such type of financial activity is prohibited under Prize Chit and Money Circulation Scheme (Banning) Act, 1978.

7. Considering the overall facts and circumstances of the case and gravity of the offence wherein the applicant is involved in such financial activities which are prohibited under the law and deceived large number of poor investors and obtained a huge amount to the tune of Rs. 139 Crores from them, in my opinion, if the applicant is released on bail, there is possibility of his absconding from trial. Thus, I do not find it a fit case to release the applicant on bail. The application is hereby dismissed.