

IN THE HIGH COURT OF JHARKHAND AT RANCHI

A. B. A. No. 3004 of 2023

Krishna Kabir Petitioner(s)

Versus

The Union of India through Central Bureau of Investigation

.. ...Opp. Party(s)

.....

CORAM :HON'BLE MR. JUSTICE GAUTAM KUMAR CHOUDHARY

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For the Petitioner : Mr. Soumitra Baroi, Advocate

For the CBI : Mr. Anil Kumar, ASGI

Ms. Chandana Kumari, AC to ASGI

Mr. Nitish Parth Sarthi, AC to ASGI

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04/ 20.07.2023. Apprehending his arrest, petitioner above-named has moved this Court for grant of anticipatory bail in connection with R.C. Case No.40(S)/ 2017 registered under Sections 120B/ 409/ 420 IPC and under Sections 4 / 5 /6 of Prize Chits & Money Circulation Scheme.

Heard the parties.

As per the case of prosecution, M/s S. B. Township India Ltd. registered with ROC, Punjab and Chandigarh was changed to M/s Alchemist Township India Ltd. with effect from 29.11.2012 which was involved in the business of real estate as per the articles of memorandum of association. However, during investigation, it transpired that the Directors of the company collected deposits to the tune of Rs.8,86,50,950/- through their local agents and Branch Incharge, Giridih under different districts in the State of Jharkhand under the scheme of booking of product packages (booking of land) which is still unpaid to the investors. Repayment has been made to some of the investors out of the collection itself which is in violation of the Prize Chits and Money Circulation Scheme (Banning) Act, 1978.

It is submitted by learned counsel for the petitioner that vicarious liability of Director cannot be imputed until and unless there is some overt act attributed to him in the said fraud. The account of the Company was operated by Charandeep Singh Jolly (A-7) who was the authorized signatory and not by this petitioner. The amount that was withdrawn and transferred was also by said Charandeep Singh Jolly and the only allegation against him is that he received Rs.89,000/- and Rs.85,000/- way back on 18.11.2016. It is stated that this amount was part of the salary. The petitioner has co-operated with the investigation and after investigation, charge-sheet has been submitted and no further purpose will be served if the petitioner is taken into custody.

Learned ASGI for the CBI has vehemently opposed the prayer. It is submitted that he was the founding Director of the Company and he cannot be absolved of all liability of embezzling the public fund for the reason that account was operated by some other person as authorized by the company.

Considering the submissions of learned counsel and considering that the charge-sheet has already been submitted and the fact as discussed above, the anticipatory bail application is allowed. Hence, in the event of his arrest or surrender within a period of three weeks from the date of receipt of a copy of this order before the learned court below, the petitioner named above shall be released on bail on furnishing bail bond of Rs.1,00,000/- (Rupees One Lakh) with two sureties of the like amount each to the satisfaction of learned Court below and subject to the condition that one of the Bailors must be Income Tax Payee and subject to the conditions laid down under Section 438(2) Cr. P.C.

The petitioner comply with the condition as laid down under Section 438(2) of the Cr.P.C.

(Gautam Kumar Choudhary, J.)

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