



NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

CRA No. 1636 of 2024

- 1 - Ramgopal Gadhewal S/o Lt. Nokhram Gahdewal Aged About 43 Years R/o Kuntrabor Ps- Pamgarh, Dist- Janjgir Champa (C.G.).**
- 2 - Shubhyan Banerjee S/o Siddharth Banerjee Aged About 41 Years R/o 128 Main Road East, North 24 Pargana, Kolkata (W.B.) Present Address- Thakur Para Lean Hatimara, Baguhiaati, P.S. Baguhiaati, Kolkata (W.B.).**
- 3 - Amit Sarkar S/o Lt. Ashok Sakar Aged About 43 Years R/o 120 A Main Road, Madhamgram Ghola, North 24 Pargana, Kolkata (W.B.) Present Address- Vasudhara, Sec- 1, Nala Road, Gaziabad, P.S.- Vasudhara, Distt- Gaziabad (U.P.).**
- 4 - Sanjiv Guha, S/o Dularchand Guha Aged About 48 Years R/o A.V. Ranipara, Janjgir Champa Present Address B- 6, Aarya, Colony6 Janjgir Champa, P.S. Janjgir, Dist- Janjgir Champa (C.G.).**
- 5 - Narayan Prasad Jhalriya, S/o Lt. Rambharos Jhalriya, Aged About 42 Years R/o Dindayal Colony, Mangla P.S. Civil Line Bilaspur (C.G.).**
- 6 - Mahadev Soni S/o Lt. Ramkrishna Soni Aged About 47 Years R/o Ram Mandali Chowk, Minoda, P.S. Sarsiwa, Dist- Sarangarh Bhilaigarh (C.G.).**

7 - Manharan Lal Kaiwart S/o Mehatar Aged About 48 Years R/o Dodadih, Ghiwara, Jaiipur, Present Address- Shivrinaryan, Dist- Janjgir- Champa (C.G.).

--- Appellants

versus

State Of Chhattisgarh Police Station Chakradhar Nagar Raigarh, District- Raigarh (C.G.).

... Respondent

(Cause title taken from Case Information System)

Order Sheet

<u>21/04/2025</u>	Mr. Sanjay Agrawal, Advocate for the appellants No. 1, 2, 3, 5, 6 and 7. Mr. Goutam Khetrapal, Advocate for the appellant No. 4. Mrs. Pragya Shrivastava, Deputy G.A. for the State. The matter has been listed for final hearing at the motion stage, but learned counsel for the appellants pray for sometime to argue the matter finally and they have been heard on I.A. No. 1 of 2024, which is the application for suspension of sentence and grant of bail to the appellants. The appellants have been convicted and sentenced by

the judgment of conviction and sentence dated 31.07.2024 passed in Case No. Depositor Interest Act/3/2022, by learned Special Judge (Chhattisgarh Protection of Depositor Interest Act, 2005), Raigarh, District Raigarh (C.G.), in the following manner:-

Conviction	Sentence
U/s 420 read with Section 120(B) of the IPC	R.I. for 02 years and fine of Rs. 5,00,000/-, in default of payment of fine additional R.I. for 01 year.
U/s 6(5) of Chhattisgarh Protection of Depositors Interest Act, 2005	R.I. for 01 month and fine of Rs. 5,000/-, in default of payment of fine additional R.I. for 10 days.
U/s 10 of Chhattisgarh Protection of Depositors Interest Act, 2005	R.I. for 04 years and fine of Rs. 4,00,000/-, in default of payment of fine additional R.I. for 10 months.
All the sentences are directed to be run concurrently.	

Mr. Sanjay Agrawal, learned counsel appearing for the appellants No. 1, 2, 3, 5, 6 and 7 would submit that the complainant had allegedly deposited the amount with the company in the year 2013-14, and act of Chhattisgarh Protection of Depositors Interest Act, 2005 (in short 'Act of 2005') is enforced in the State of Chhattisgarh

from July 2015, therefore, the appellants cannot be convicted for the offence under Sections 6(5) and 10 of the Act of 2005, which has been enforced from July 2015. He would also submit that none of the witnesses have stated that they have deposited their amount with the present appellants. On the same set of evidence, two accused persons have been acquitted. The amount has been paid to the agent and no liability can be imposed upon the present appellants, yet they have been convicted by the learned trial Court. The total period of sentence awarded to the appellants are of 04 years R.I., out of which they are already undergone about 02 years of their sentence, therefore, they may be enlarged on bail.

Mr. Goutam Khetrapal, learned counsel appearing for the appellant No. 4 would submit that except the witnesses i.e. PW-15 and PW-16, none of the witnesses have supported the prosecution's case and even in the evidence of PW-15 and PW-16, there are material contradictions and omissions with respect to deposit of the amount with the company. There is no inducement to the complainant for deposit of their amount with the company. He would also

submit that the amount has been invested with the company in the year 2014, whereas the Act of 2005 has been enforced w.e.f. 23.07.2015, and therefore, no liability can be imposed upon the appellant under the Act of 2005. The appellant has already undergone about 02 years of his sentence and therefore, he may also be enlarged on bail.

On the other hand, learned counsel appearing for the State would oppose the submissions made by the counsel for the appellants and has submitted that the complainant and other depositors have deposited their amount in between the period of 03.03.2014 to 31.01.2016, which was for the period of 05 years and in between that the Act of 2005 has been enforced w.e.f. 23.07.2015 and thus, the Act of 2005 is applicable to the deposits made with the company of the appellants. The appellants are the Directors of the company and they cannot escape from their liability by saying that the depositors have not directly deposited their amount with them, since they are the Directors of the company, all the liabilities of the company are with them. There are sufficient evidence of inducement that the depositors will provide the higher interest and more benefit if

they deposited the amount with the company. She would also submit that there is no sanction from SEBI to collect money from the depositors. A huge amount has been collected by the appellants from the depositors and cheated them. Therefore, they are not entitled to be released on bail.

I have heard learned counsel for the parties and perused the record of the case.

Considering the submissions made by learned counsel for the parties, considering the nature of allegation against the appellants and the evidence available on record, further considering the involvement of the appellants in the offence in question that they being the Directors of the Pratistha Infracon India Limited Company, in which the depositors have deposited their amount, but could not receive back their amount, further considering that there is no sanction from SEBI to collect money and also the stake involved in the present case, so also the applicability of the Act of 2005 in view of the transaction between the parties in the present case is the subject matter of final adjudication, I am not inclined to release the appellants on bail.

Accordingly, the bail application filed by the appellants (i.e. I.A. No. 1 of 2024) is therefore **rejected**.

List this case after 08 weeks for final hearing.

**Sd/-
(Ravindra Kumar Agrawal)
Judge**