

# **Divesh Kumar Bajaj vs The State Of Madhya Pradesh on 23 October, 2020**

**Author: Rajeev Kumar Dubey**

**Bench: Rajeev Kumar Dubey**

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The High Court Of Madhya Pradesh  
MCRC-5692-2020

(DIVESH KUMAR BAJAJ Vs THE STATE OF MADH

Jabalpur, Dated : 23-10-2020

Heard through Video Conferencing.

Shri Ajay Mishra, learned Senior Counsel with Shri  
learned counsel for the applicant.

Shri Pramod Chourasiya, learned PL for the respon

Case dairy perused and argument heard.

This is the third application filed under Section 439 of the Cr.P.C. for grant of bail. Applicant Divesh Kumar Bajaj was arrested on 23/02/2018 in connection with Crime No.478/2017 registered at Police Station Waidhan, District Singrauli for the offence punishable under Sections 420, 34 of the IPC and Section 6(1) of the M.P. Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam, 2000.

The first bail application filed by the applicant was dismissed on merit by this Court vide order dated 28/09/2018 passed in M.Cr.C.No.24980/2018 and second bail application filed by the applicant was dismissed on merit by this Court vide order dated 04.09.2019 passed in M.Cr.C. No.20208/2019.

As per prosecution case on the complainant of Indrasen Prasad Soni police registered Crime No.478/2017 for the offence punishable under Sections 420, 34 of the IPC and Section 6(1) of the M.P. Nikshepakon Ke Hiton Ka Sanrakshan Adhiniyam, 2000 against the, Chairman, Manager, Employees and Agents of the GN Gold and G.N. India Ltd. Company. The general allegations against all the accused persons of the case are that they sold the financial products of the companies to the general public assuring them high returns upon their investments after maturity periods. However, they have not paid the money after the maturity periods. On the other hand, they closed down the office of the company from Bilonji (Waidhan) and fled away. The specific allegations against the applicant is that he is chartered accountant in the said company and he also gave assurance to the 2 MCRC-5692-2020 complainant and other persons that they would get a high return on buying the products of the company and misappropriated the huge amount of innocent people.

Learned counsel for the applicant submitted that the applicant is innocent and has falsely been implicated in the matter. The applicant was working as a Chartered Accountant in the said G.N. Dairy & Gold Company and he has no role to play in the Policy making/decision making affairs of the company. It is further submitted that the applicant has not collected any money from the complainant and other persons. Learned counsel further submitted that SEBI has also conducted an enquiry against the company and in its report SEBI also did not find any fault of applicant. From the FIR, it is apparent that complainant and other person did not know the applicant. In the FIR, the name of applicant is mentioned as Dinesh Bajaj instead of Divesh Bajaj. It is further submitted that no offence under Section 6(1) of the M.P. Nishchepakon Ke Hiton Ka Sanrakshan Adhiniyam, 2000 is made out against the applicant because the applicant is not the employee of the said company. The applicant has been in custody since 23/02/2018. Earlier this Court vide order dated 04.09.2019 directed the trial Court to complete the trial of the case within 9 months but trial is still pending. So looking to the period of custody and the Covid-19 pandemic, applicant be released on bail. Learned counsel for the State opposed the prayer and submitted that earlier bail application filed by the applicant was dismissed on merit by this Court vide order dated 28/09/2018 passed in M.Cr.C.No.24980/2018 and since then there has been no change in circumstances except custody period of the applicant, so he should not be released on bail.

The first bail application filed by the applicant was dismissed on merit by this Court vide order dated 28/09/2018 passed in M.Cr.C.No.24980/2018 and second bail application filed by the applicant was dismissed on merit by this Court vide order dated 04.09.2019 passed in M.Cr.C.No.20208/2019 and since then there has been no change in circumstances except custody 3 MCRC-5692-2020 period of the applicant. Hon'ble Apex Court in the case of Rajesh Ranjan Yadav alias Pappu Yadav v. CBI Through its Director, (2007) 1 SCC 70 held that bail, cannot be granted solely on the ground of long incarceration in jail and inability of accused to conduct the defence.

In the FIR and the case diary statements of the prosecution witnesses, it is mentioned that applicant also gave assurance to the complainant and other persons that they would get a high return on buying the products of the company. So looking to the enormity of fraud and the fact that other offences of similar nature are also registered against the applicant, this court is not inclined to grant bail to the applicant.

Hence application is rejected.

B u t it appears from the record that applicant is in custody since 23.02.2018 but the trial is still pending, so it is expected from the trial court to dispose of the case as early as possible.

Office is also directed to send a copy of this order to concerned Court a n d Principal Register, Vigilance of the High Court for necessary compliance.

(RAJEEV KUMAR DUBEY) JUDGE mn