

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 508 of 2015

Neeraj Singh Rathore S/o Shri S.S.Rathore Aged About 34 years Occupation- Advocate, R/o House No.19, Road No.4/A, Vidyut Nagar, Durg, Civil And Revenue District Durg, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through: Police Station Padmnabhpur, Durg, District Durg, Chhattisgarh

---- Non-applicant

For Applicant/s	: Shri V.R.Tiwari and Shri Sandeep Yadav, Advocates
For Non-applicant / State	: Shri Vinod Tekam, Panel Lawyer.
For the Objector	: Shri Manish Upadhyaya, Advocate.

Order On Board

08/07/2015

The applicant is apprehending his arrest in connection with Crime No.407/2015 registered in Police Station – Padmnabhpur, District- Durg, CG for alleged commission of offence under Section 420 of IPC.

2. Prosecution case is that the applicant cheated the complainant by selling his vehicle without his notice and knowledge to the third party exceeding his authority as power of attorney holder. It is submitted that the applicant was given power of attorney by the complainant only to take care of the vehicle but no authority was given to sell.

3. Learned counsel for the applicant submits that the complaint is false. He submits that there exists a dispute relating to transaction of money between the applicant and the complainant. The complainant had taken a loan of Rs.1,50,000/- from the

applicant. He had also taken loan of Rs.2,50,000/- from the brother-in-law of the applicant. It is submitted that the complainant gave cheque of Rs.2,30,000/- which bounced and then on the complaint of applicant's brother-in-law, offence under Section 138 of the Negotiable Instruments Act was registered against the complainant in which, he was convicted. It is submitted that all the documents pertaining to transfer of the vehicle consequent upon sale of vehicle bears signature of the complainants and also includes copies of registration of vehicle. Though the vehicle is alleged to have sold on 26/02/2013, written complaint was lodged on 23/06/2014 i.e. after almost 1½ years which itself make the allegations false and concocted. He submits that the applicant is a practicing advocate and not likely to abscond and in the circumstances of the case, appropriate conditions may be imposed to ensure proper cooperation of the applicant in the investigation. He submits that the applicant is willing to cooperate with the investigating agency in the matter of obtaining specimen signature and other aspects of the investigation.

4. On the other hand, learned counsel for the State and the objector oppose the bail application and submits that from the contents of the power of attorney itself, it is clear that there was no authority given to sell the vehicle. The applicant however, cheated the complainant. It is submitted that the applicant sold the vehicle without the notice and knowledge of the complainant and kept the entire amount of consideration of Rs.1,50,000/- with him. Therefore, a prima facie case of cheating is made out.

5. Prima facie, the documents present in the case diary show that the complainant had given a power of attorney in favour of the applicant which relates to the vehicle in dispute. The vehicle is alleged to have been sold in the year 2013 whereas the complaint has been lodged after one year and five months. The documents relating to transfer of ownership consequent upon the sale and purchase are stated to be signed by the complainant himself and are accompanied with the certificate of

registration which ordinarily is in possession of the owner of the vehicle. The applicant is a practicing lawyer and is prepared to cooperate with the investigation and also provide his specimen signature.

6. In view of aforesaid circumstances, I am inclined to protect the applicant by granting him anticipatory bail.

7. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the arresting officer on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer with following further conditions that:

(i) the applicant shall make himself available for interrogation by the police officer as and when required;

(ii) the applicant 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;

Certified copy as per rules.

(Manindra Mohan Shrivastava)
Judge