

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.798 of 2015

Rakesh Sharma S/o Shri S.M. Sharma Aged About 41 Years R/o Bajpai Castal,
Near Minocha Colony Teh. - Bilaspur, Civil And Rev. Distt. Bilaspur
Chhattisgarh.

---- **Petitioner**

Versus

State Of Chhattisgarh Through Civil Line Thana, District Bilaspur Chhattisgarh.

---- **Respondent**

For Petitioner	:	Shri Mahesh Kumar Mishra, Advocate
For Respondent/State	:	Shri Manish Nigam, Panel Lawyer

Order On Board

02/09/2015

Heard.

2. The applicant in the aforestated bail application is apprehending his arrest in connection with Crime No.332/2015 registered at police station–Civil Line, Bilaspur, CG for alleged commission of offence under Section 420 of IPC.

3. Prosecution case is that the applicant had issued a cheque in favour of the complainant, which bounced in the background that initially an agreement to sell was executed by the applicant in favour of the complainant for sale of a plot, in relation to which, a dispute arose leading to issuance of cheque by the applicant, it is alleged that the applicant cheated the complainant.

4. Learned counsel for the applicant submits that if after issuance of cheque, payment is stopped, it cannot be said to be a case of cheating. If the cheque is bounced, the only proceedings which can be drawn against the applicant is of commission of offence under Section 138 of the Negotiable Instrument Act. It is submitted that complaint is already registered and criminal case is going on.

5. On the other hand, learned State counsel submits that the applicant towards discharge of his liability of repayment of sale consideration had issued a cheque in favour of the complainant, but before cheque could be presented, he directed the bank not to make payment, therefore, prima facie case of cheating is made out.

6. Case diary reveals that agreement to sell was executed on 16-12-2014 for sale

of a plot and Rs.15 Lakhs were taken by the applicant. According to the applicant and the complainant, as prima facie found in the case diary, the complainant was not interested in the plot and therefore, he asked the applicant to return the amount and it was in this background, the applicant issued cheque of Rs.15 Lakhs, which bounced due to stop payment. Therefore, in that respect, a criminal case is already going on against the applicant. The police has now registered crime against the applicant for commission of offence under Section 420 of IPC in respect of the same incident on the FIR lodged by the complainant on 04-07-2015 i.e. subsequent to institution of criminal case for alleged commission of offence under the Negotiable Instrument Act.

7. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration the background of the incident, I am inclined to grant bail to the applicant.

8. 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 on furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicant shall make himself available for interrogation by a Police Officer as and when required;
- (ii) that he 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 them from disclosing such facts to the Court or to any Police Officer.
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
Manindra Mohan Shrivastava
Judge