

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.4400 of 2015**

Shahjade Ahmad, aged about 50 years, son of Abdul Hameed, resident of Afroj Badi, Maudahapara, Police Station-Maudahapara, Raipur, District-Raipur (CG)

---Applicant

Versus

State of Chhattisgarh Through: Station House Officer, Police Station-Maudahapara, Raipur, District Raipur (CG)

---Non-applicant

For Applicant	:	Mr. V.R.Tiwari, Advocate
For Non-applicant	:	Mr. O.P.Sahu, Government Advocate
For Objector	:	Mr. Salim Kazi, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

01/09/2015

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.106/2015, registered at Police Station-Maudahapara, District-Raipur (C.G.), for the offence punishable under Section 384 of the IPC.

2. Case of the prosecution, in brief, is that complainant Siraj Anwar has taken a loan of Rs.10,00,000/- from the accused and issued two cheques for the same, thereafter the complainant paid Rs.27,30,000/- to the accused, but the applicant did not return the cheques and thereafter, put him by fear of injury demanded additional amount and thereby committed the aforesaid offence.

3. Learned counsel for the applicant would submit that the applicant has not committed any offence and he has falsely been implicated in crime in question. He would further submit that complainant Siraj Anwar did not return the amount of Rs.10,00,000/-, which he has taken by issuing two cheques to him against which he has filed criminal complaint for an offence under Section 138 of the Negotiable

Instruments Act, 1881, which has been registered as Criminal Complaint Case No.746/2013 in the Court of Judicial Magistrate First Class, Raipur (Shahjade Ahmad vs. Siraj Anwar) and summons has been issued to the complainant on 28.12.2013. He would also submit that the applicant has also made criminal complaint against Vasudev Keshwani on 5.11.2011 and thereafter Laxmichand Gyanchandani has filed criminal complaint against the applicant as counter blast. He contended that F.I.R. in Crime No.69/2015 has been registered against the present applicant on 24.7.2015 by Aslam Khan alleging the extortion, whereas the applicant is already in custody in the instant case w.e.f. 23.7.2015. In fact, in the year 2012, the applicant has also made criminal complaint against Gulam Murtuza for an offence punishable under Section 138 of the Negotiable Instruments Act, 1881, which is pending consideration. He further contended that the applicant is in jail since 23.7.2015 and substantive investigation has already been completed, therefore, he may be enlarged on bail.

4. On the other hand, learned counsel for the State would oppose the bail application and submit that the complainant has returned an amount of Rs.27,30,000/- to the applicant, but the applicant has not returned the cheques and filed criminal complaint under Section 138 of the Negotiable Instruments Act stating that cheques have been dishonored and demanded further money claiming interest @ 10%. He would further submit that the present F.I.R. could be registered only on the intervention of the Lokayukt after due inquiry and therefore, looking to the criminal antecedents and material available against the applicant, he should not be released on bail.

5. Mr.Salim Kazi, learned counsel appearing for the objector would oppose the bail application and submit that it is apparent on the face of record that the applicant has also filed criminal complaint against Vasudev Keshwani on 5.11.2011 and thereafter also against the present complainant on 11.11.2013 under Section 138 of the Negotiable Instruments Act and F.I.R. in Crime No.69/2015 came to be

registered against the applicant on 24.7.2015 while he was in custody.

6. I have heard learned counsel appearing for the parties and perused the case diary.

7. So far as the present case is concerned, it is apparent that there is dispute between the applicant and complainant Siraj Anwar relating to loan transaction and it is the case of the applicant that loan of Rs.10,00,000/- taken by the complainant from him has not been returned to him, whereas it is the case of the complainant that Rs.27,30,000/- has been repaid against loan of Rs.10,00,000/- and cheques have not been returned and upon dishonor of cheques, criminal complaint has falsely been filed to put pressure upon the complainant.

8. Taking into consideration the facts and circumstances of the case; further taking into consideration the nature and gravity of offence; nature of dispute pending between the parties; taking note of the fact that criminal complaint has also been filed by the applicant against Vasudev Keshwani and present complainant Siraj Anwar, also considering the fact that the applicant is in custody since 23.7.2015, his role in crime in question and the fact that substantive investigation has already been completed, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

9. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

10. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of **Rs.25,000/-** with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

11. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
JUDGE