

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 701 of 2015

Jitendra Shrivastava S/o Dinesh Kumar Aged About 48 years R/o Vrindavan Colony,
P.S. Bodghat Jagdalpur, Distt. Bastar Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station : Bodhghat
Jagdalpur, Distt. Bastar Chhattisgarh

---- Respondent

For Applicant	-	Shri Abhishek Sinha, Advocate
For Respondent/State	-	Shri R.K. Gupta, Dy. A.G.

Order On Board

07/08/2015

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.171/2015 registered at Police Station-Bodhghat, Jagdalpur, District-Bastar (C.G.) for alleged commission of offence under Section 420, 409 of IPC.
2. Prosecution case is that the complainant invested Rs.4 lacs on the promise given by the applicant. It is alleged that from the very beginning, the applicant had dishonest intention. For about 15 months, the applicant paid interest as promised but thereafter, the applicant started nurturing dishonest intention not to pay the interest and when investment was demanded, the applicant kept on giving small amounts in installment totaling a sum of Rs.75,000/-. The applicant also issued post dated cheque of Rs.4,85,000/- but every time expressed his inability to pay the amount, therefore, ultimately, the report was lodged in the police station.
3. Learned counsel for the applicant submits that the bare reading of the complaint lodged by the complainant itself show that it is not a case of cheating. He submits that the very fact that for 15 months, the interest on the amount invested was given to the complainant and thereafter, some installments have also been repaid, though entire amount have not been repaid, it is not a case of any criminality but a civil dispute. He submits that the applicant is making all attempt to repay the entire amount.

4. On the other hand, learned State counsel opposes prayer for grant of anticipatory bail and submits that the applicant having taken Rs.4 lacs from the complainant and stopping to pay interest after 15 months and against all assurances giving only Rs.75,000/-, prima facie makes out a case of intention to cheat. He submits that the cheque was also bounced, therefore, in these circumstances, the applicant is not entitled to grant anticipatory bail.

5. Taking into consideration the submission of learned counsel for the parties, particularly the statement of the complainant himself that for about 15 months, interest was paid to the complainant and thereafter, Rs.75,000/- has been paid in installments by the applicant, the submission that it is a civil dispute, therefore, in these circumstances, I am inclined to extend the benefit of anticipatory bail to the applicant.

6. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, the applicant shall be released on bail on 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 and the applicant shall abide by all the following terms and conditions-

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

Certified copy as per rules.

Sd/-

Manindra Mohan Shrivastava

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