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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.733 of 2015

Shirish Anant Patki S/o Late Shri Anant S. Patki Aged About 56 Years The Then Branch Manager, State Bank Of India, Branch Dongargaon, Distt. Rajnandgaon (Chhattisgarh) And At Present Posted At State Bank Of India, Mumbai. Permanent Address : Near Railway Colony, Raigarh, P.S. Raigarh, Civil And Revenue District - Raigarh (Chhattisgarh). Present Address : S-1202 Jasmin, State Bank Colony, Nerul, Navi Mumbai (Maharashtra).

---- Petitioner

Versus

State Of Chhattisgarh Through: Station House Officer, Police Station - Dongargaon, District - Rajnandgaon (Chhattisgarh).

---- Respondent

For Petitioner	:	Shri Awadh Tripathi, Advocate
For Respondent/State	:	Shri Satish Gupta, Govt. Advocate

Order On Board

14/08/2015

The applicant has preferred this application under Section 438 of Cr.P.C., apprehending his arrest in connection with Crime No.272/2014, registered at Police Station–Dongargaon, District Rajnandgaon for alleged commission of offence under Sections 420/34 of IPC.

2. Case of the prosecution is that the applicant and co-accused prepared forged documents of loan in the name of one Roop Singh Nai S/o Bhikham and thus, loan of Rs.50,000/- was disbursed in the year 2007.

3. Learned counsel for the applicant submitted that the loan application was submitted by the co-accused Roop Singh Nai S/o Bhikham, which was examined and verified and thereafter, loan was sanctioned by the co-accused-Suraj Prakash. Loan application was filled up and all the identifying documents including Voter Identity Card, Certificate of Sarpanch, Revenue Papers recording the name of Roop Singh as Bhoomiswami were attached with the loan application. In these circumstances, the applicant as controlling authority, sanctioned loan, therefore, no criminal liability can

be fastened in the absence of there being any material to show that the applicant had actually verified the identity of the accused before grant of loan.

4. On the other hand, learned State counsel opposed the prayer for grant of bail by submitting that as a controlling authority, duty of the applicant was to verify the genuineness of each and every document including identity of the person applying for grant of loan. It was, later on, revealed that the person in the name of Roop Singh Nai S/o Bhikham is not a resident of the village indicated in the loan documents which shows that in the name of a fake person, loan documents were prepared. The applicant and co-accused prepared the loan documents and they are the beneficiaries.

5. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that the loan was sanctioned by the co-accused and thereafter, it was placed before the applicant and in the absence of there being any material to show that the applicant had certified the identity of the borrower or that he had prepared any report recording his identity, the application is allowed.

6. 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 for a sum of Rs.20,000/ with one local surety in the like sum to the satisfaction of the arresting officer, on the following conditions that:

(I) he shall make himself available for interrogation by a police officer as and when required;

(ii) 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 him from disclosing such facts to the Court or to any police officer, *and*

(iii) he shall cooperate with the investigation as and when he is called.

Sd/-
Manindra Mohan Shrivastava
Judge

Tumane