

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 1034 of 2015

Asandas Mohnani, son of Shri Hariram @ Topanmal Mohnani, aged about 51 years, resident of opposite Sheetal Ashram, Patankar Colony, Sindhi Colony, Durg, Tahsil and District Durg, Chhattisgarh
--- Applicant

Versus

- 1. Bhagwandas Vishwakarma, son of late Shri Shrawanlal Vishwakarma, resident of 45-A/1, Nehru Nagar (West), Bhilai, Thana Supela, Tehsil and District Durg, Chhattisgarh.
- 2. State of Chhattisgarh, through the District Magistrate, Durg, District Durg, Chhattisgarh
--- Respondent

For the applicant	:	Mr. Amrito Das, Advocate
For the objector	:	Mr. Punit Ruparel, Advocate
For the State	:	Mr. Omprakash Sahu, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

18.11.2015

- 1. Apprehending arrest in connection with Criminal Case No. 6849/2015 registered by JMFC, Durg for the offences punishable under Sections 420, 467, 468 and 471 of IPC, the applicant has filed this application under Section 438 Cr.P.C., for grant of anticipatory bail.
- 2. As per the prosecution version, the applicant gave a Cheque for payment to the complainant in discharge of his liability which got dishonoured for which a case u/s 138 N.I. Act read with section 420 IPC was filed. Subsequently the said complaint was dismissed which was subject to revision before the High Court. The revision was subsequently withdrawn. Thereafter, another petition u/s 420 read with sections 466, 467 & 468 was filed wherein the initial petition was dismissed and subsequently the revision having been preferred, the Sessions Judge remanded the case and thereafter a fresh complaint case was registered.
- 3. Learned counsel for the applicant submits that in the year 2004, an amount of Rs.60,000/- was advanced by the complainant to the applicant and the amount though was paid, the cheque remained with the complainant which was used in a complaint case filed under provisions of section 138 N.I. Act and subsequently the said complaint was dismissed which was subject of revision before the

High Court. He submits that the said revision was subsequently withdrawn and thereafter another complaint was filed and initially it was dismissed but subsequently having remanded the case from Sessions Judge, now a case is registered. It is also submitted that *prima-facie*, no outright case is made out against the applicant under the alleged sections.

4. Per contra, learned State Counsel and also learned counsel for the objector vehemently oppose the bail and submits that the alleged cheque was stolen from the original records of the Court and the applicant was responsible for it and on that basis the case is registered.
5. I have gone through the documents attached with the petition as also the documents placed by the complainant.
6. Having regard to the documents filed along-with the petitioner and looking to the series of litigations between the parties right from the year 2004 and thus taking into totality of the facts and circumstances of the case, I am inclined to allow this application.
7. Accordingly, M.Cr.C(A). 1034 of 2015 is allowed and 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 trial Court on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court or the offer arresting him. The applicant shall appear before the concerned court on 15th December, 2015. The applicant shall also abide by the following conditions :-
 - (i) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
 - (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 him/her from disclosing such facts to the Court or any police officer;
 - (iii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and

C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE