

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**M.CR.C. No. 1095 of 2016**

1. Dashrath Sahu, S/o. Ramkumar Sahu, aged about 38 years, Occupation- Agriculturist/labour, R/o. Village-Kutkipara, P.S. & Tahsil – Sahaspur/Lohara, District – Kabirdham, Civil and Revenue District – Kabirdham (C.G.)

----Applicant

**Versus**

1. State of Chhattisgarh, Through : Station House Officer, Police Station – Sahaspur/Lohara, District – Kabirdham (C.G.), Civil and Revenue District – Kabirdham (C.G.)

---- Respondent

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For Applicant : Mr. Santosh Bharat, Advocate

For Respondent/State : Mr. Anil S. Pandey, Govt. Advocate

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order On Board**

**23/02/2016**

1. This is the second 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.337/2015, registered at Police Station – Sahaspur/Lohara, District – Kabirdham (C.G.) for the offence punishable under Section 420, 423 of Indian Penal Code. The first bail application was dismissed as withdrawn vide order dated 17.12.2015 in M.Cr.C. No.7095 of 2015 with liberty to revive the same after examination of the material witness.
2. Case of the prosecution, in brief, is that in the month of December, 2013, the applicant received an amount of Rs.4.00 lakhs to provide job to the wife of the complainant namely Bhagwati Vaishnav, however, when the job could not be provided, the report was made.
3. Learned counsel for the applicant would submit that material witness i.e. Bhagwati Vaishnav, the complainant has been examined. The counsel went through the statement of witness at para-9 and would submit that as per Article -1, which is dated 26.02.2014, the amount was paid as a loan,

which was given to the applicant for purchase of a tractor and being given after the results have been declared. He would further submit that the allegation of receipt of amount to provide the job is completely wrong, therefore, the counsel prays that the applicant may be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail application.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Perused the statement of Bhagwati Vaishnav (PW-1). At para-9 of the statement, it has been stated that the amount was received on 26.02.2014 and at para-1 of the statement it is stated that the date of incident is 22.12.2013. At para-9 itself, the suggestion which has given by the applicant that when the Article -1 was executed, no amount was given, therefore, the statement made in para-9 can not be accepted in part by accepting some part and negating the other part when the suggestion has been given by the accused himself that the amount was not paid on the date of execution of agreement i.e. on 26.02.2014. The fact has to be appreciated after the entire evidence is adduced by the Trial Court. This Court at the time of consideration of bail application, can not pick-up a part of the statement without reading as a whole and appreciating the same. Therefore, I am not inclined to release the applicant on bail by appreciating the statement in part. It is left open for the Trial Court for consideration.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is dismissed.

**Sd/-**  
**(Goutam Bhaduri)**  
Judge