

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 511 of 2016

- Rudmal Agrawal S/o Bihari Lal Agrawal Aged About 62 Years
R/o Sitamani, Main Road, Korba, Police Station City Kotwali,
Tahil Korba, Civil & Revenue District Korba Chhattisgarh

--- Applicant

Versus

1. State of Chhattisgarh Through The Collector / District
Magistrare, Korba, District Korba Chhattisgarh
2. Mohan Lal Agrawal R/o Late Mandan Lal Aged About 54 Years
R/o Sitamani, Main Road, Korba, Police Station City Kotwali,
Tahsil Korba, Civil & Revenue District Korba Chhattisgarh

--- Respondents

For the applicant	:	Mr. Sumesh Bajaj, Advocate.
For the State	:	Mr. Anil S. Pandey, Govt. Adv.
For the Complainant	:	Mr. Rajesh Roshan Singh, Adv.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

26.08.2016

1. Apprehending arrest in connection with Criminal Case No. 1543 of 2015 registered and pending in the Court of Chief Judicial Magistrate, Korba Distt. Korba (C.G) for the offences punishable under sections 420 & 467 of IPC, the applicant has filed this application u/s 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. This is second bail petition. The earlier bail petition was dismissed on 04.12.2015.
3. Learned counsel for the applicant submits that after rejection of the earlier bail application, the applicant and complainant have entered into compromise wherein the receipt of sale consideration of Rs.1,20,00,000/- was admitted and complainant/objector Mohan Lal Agrawal has executed an

affidavit that in view of the compromise the complainant shall take back the proceeding of Criminal Case No.1543 of 2015 which is the instant case. It is further submitted that in Cr.M.P., bearing Nos.583 and 584 of 2016 which have been filed u/s 482 Cr.P.C., in the month of May, 2016, the complainant has relied on the affidavit at para 8 of the petition which has been filed by the petitioner wherein it records that the compromise has been effected between the parties, therefore, presently after passing the rejection order dated 04.12.2015, the entire scenario has been changed as the new circumstances had taken place in which the complainant himself has admitted about compromise on facts and hence the applicant may be enlarged on anticipatory bail.

4. Per contra, learned State Counsel and learned counsel for the complainant oppose the prayer for grant of bail and submit that the applicant has not made a statement that the compromise has been effected before any proceeding which is filed u/s 482 of Cr.P.C. He, therefore, submits that the applicant may be directed to make such statement before the Criminal Court about compromise.
5. Perused the earlier rejection order dated 04.12.2015. The said order was passed while taking into consideration the agreement dated 21.2.2012 which was stated to be a forged one made by the present applicant. Presently after rejection of the earlier bail application, the subsequent bail petition is presented wherein the agreement dated 30.01.2016 has been made the basis along with affidavit. Perused the agreement dated 30.01.2016 as also the affidavit. The affidavit of the complainant records that the compromise has been effected between the parties and therefore, the proceedings for which the present petition has been filed bearing No.1543 of 2015 shall be taken back.

6. Considering the totality of the facts and circumstances and in view of the recent change of circumstances which took place after rejection of earlier bail on 04.12.2015 and as the new agreement and affidavit have been executed I am of the opinion that no further custodial interrogation may be required in this case. Therefore, at this stage, I am inclined to admit the applicant to anticipatory bail.
7. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicant in connection with Criminal Case No.1543 of 2015, he shall be released on bail on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court.

The applicant shall also abide by the following conditions :-

- (i) that, the applicant shall appear before the concerned trial Court i.e., the Chief Judicial Magistrate, Korba where the complaint is pending, within a period of fifteen days and shall furnish bail for the amount as may be fixed by the Magistrate;
- (ii) that, the applicant shall regularly appear before the Court of CJM and co-operate in the quick disposal of the private complaint;
- (iii) 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 him from disclosing such facts to the Court or to any police officer on enquiry.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**