

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 539 of 2016

- Smt. Arshiya Ahmad W/O Sayyed Mateen Ahmad Aged About 28 Years R/O Baldevgag, Ward No. 14, Sahar, Tahsil & District Rajnandgaon Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through - District Magistrate, Rajnandgaon, District Rajnandgaon Chhattisgarh

---- Respondent

For Applicant	:	Mr. B.P. Singh, Advocate
For Respondent/State	:	Mr. Anupam Dubey, Dy.G.A.
For objector	:	Mr. T.K.Tiwari, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

10-08-2016

1. This application under Section 438 of Cr.P.C has been filed by the applicant apprehending her arrest in connection with Crime No. 107 of 2016 registered at Police Station Dongargaon, District Rajnandgaon (CG) for offence punishable under Sections 420 and 406 of the IPC.
2. Case of the prosecution, in brief, is that on 10-07-2013 the applicant entered into agreement of sale of vehicle Truck bearing registration No. CG-08-L-0249 with purchaser Manish Tiwari for Rs.13,50,000/- and out of that amount, Rs.6,88,000/- was paid by him. Since the vehicle was financed it was agreed that rest of the finance amount would be paid by the purchaser Manish Tiwari to Cholamandalam Finance

Company. Subsequently, on 2-12-2014 when the said vehicle was parked at Bhawana fuels situated at G.E. Road, Dongargarh, the applicant took away the vehicle and sold it again to one Sanjay Kumar Agarawal and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that initially the report was made to Police, but it was not registered as no offence was made out. It is further submitted that as per Annexure A/2, since the vehicle was financed in the name of the applicant, notice was issued by Chola mandalam Finance Company for repayment and since notice was served to the applicant, rest of the installments were paid and consequently the applicant being owner has taken away the vehicle, therefore, the applicant may be extended the benefit of anticipatory bail.
4. *Per contra*, learned State counsel and also learned counsel for the objector opposing the prayer for grant of anticipatory bail would submit that out of total 21 installments, 18 installments were paid by the complainant to Chola mandalam Finance Company and three installments were remained to be paid by the complainant. When notice was served, taking advantage of that the applicant took away the vehicle and sold it again to one Sanjay Kumar Agarawal on 14-1-2014 by suppressing the sale with the complainant. It is further submitted that after taking possession of the vehicle the applicant has not returned

back the amount to complainant and thereby the applicant committed offence.

5. I have heard learned counsel for the parties, perused the case diary, documents and sale agreement (Annexure A/2) filed by the applicant which would show that delivery of the vehicle was made to the complainant.
6. Perusal of the case diary, documents and statement of Sanjay Kumar Agarawal would go to show that the applicant again sold the said vehicle to Sanjay Kumar Agarawal.
7. Considering the facts and circumstances of the case, nature and gravity of the offence and further considering the sale agreement and statement of Sanjay Kumar Agarawal to whom the vehicle was resold, I am of the considered opinion, *prima facie*, that it is not a fit case where benefit of anticipatory bail can be extended to the applicant.
8. Accordingly, the application filed under Section 438 of the Cr.P.C., for grant of anticipatory bail is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju