

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1379 of 2015**

- Devendra Kumar Shrivastava, S/o Raghav Sharad Prasad, aged about 60 year, Occup. Service, R/o Flat No.213, Welfare Tower, Dhimna Road, Transport Nagar, Jamshedpur (Jharkhand)

---- Applicant**Versus**

- State of Chhattisgarh, Through Police Station Kotra Road, Raigarh, Distt.- Raigarh (C.G.)

---- Respondent

For Applicant	:	Mr. Kishore Bhaduri and Mr. Pawan Kesharwani, Advocates.
For Respondent/State	:	Mr. Sameer Behar, Panel Lawyer

Hon'ble Shri Justice I.S. Uboweja**Order on Board****02/05/2016**

1. The applicant has preferred the instant bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 146 of 2015, registered in Police Station Kotra Road, District Raigarh (CG), for offence punishable under Sections 420/34 of the IPC.
2. The case of the prosecution, in brief, is that the complainant namely Raju Mahali lodged a report before the police station Kotra Road, Raigarh, stating therein that other accused obtained Rs.1,46,000/- from him assuring him that they would refund the aforesaid money by increasing one and half times more and they have not refunded the money to him. But now the applicant and other accused have already deposited the money with interest.
3. Learned counsel appearing for the applicant would submit that the applicant is innocent and has been falsely implicated in the case and he has not committed any offence as alleged in the prosecution. Learned counsel would further submit that there is no evidence available on the record to show that the money was taken through cheating from the complainant by the present applicant. It has been further argued that as per the prosecution case, while the complainant has deposited money for booking of the plot, the present applicant was not present and that the

applicant and other accused have already deposited the money in the complainant's account. It is also submitted that other co-accused, who have been arrested, were already granted bail by the co-ordinate Bench of this Court. Therefore, present applicant may be extended the benefit of anticipatory bail.

4. On the other hand, learned counsel for the State opposing the prayer for grant of bail would submit that looking to the overt act of the applicant, in whose guidance the other accused had taken money for booking of the plot from the complainant, therefore, he is not entitled for anticipatory bail.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration the submission of learned counsel for the parties, and the facts of the case that while the complainant has deposited money for booking of the plot, the present applicant was not present and also that they have already deposited the money in the complainant's account; that the investigation is complete, charge sheet is filed and further that the applicant is not stated to be a habitual offender and similarly situated co-accused have already been granted bail, I am of the considered opinion that *prima facie* it is a fit case where the applicant can be extended the benefit of anticipatory bail.
7. Accordingly, the application for grant of anticipatory bail is allowed. It is directed that in the event of arrest, the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety of the like sum to the satisfaction of the Officer arresting him and he shall abide by all the following terms and conditions:
 - (i) that the accused/applicant shall make himself available for interrogation before the concerned Investigating Officer as and when required;
 - (ii) that the accused/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/her from disclosing such facts to the Court or to any police officer;
 - (iii) that the accused/applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(I.S. UBOWEJA)
JUDGE