

HIGH COURT OF CHHATTISGARH, BILASPURMCRCA No. 1381 of 2015

1. Smt. Hema Khetan W/o Pankaj Khetan Aged About 35 Years R/o Ganj Para, Mahasamund Police Station - Mahasamund, Distt. Mahasamund Chhattisgarh.
2. Pankaj Khetan W/o Shyam Sundar Khetan Aged About 41 Years R/o Ganj Para, Mahasamund Police Station - Mahasamund, Distt. Mahasamund Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through Police Station Gol Bazaar Raipur District Raipur Chhattisgarh.

---- Non-Applicant

For Applicants	:	Mr. Hemant Kesharwani, Advocate.
For Respondent/State	:	Mr. Sameer Behar, Panel Lawyer
For Objector	:	Mr. Kishore Bhaduri, Advocate.

Hon'ble Shri Justice I.S. UbowejaOrder on Board10/02/2016

1. The applicants have filed this bail application under Section 438 of the Code of Criminal Procedure, 1973 (for short, 'the Code') for grant of anticipatory bail, apprehending their arrest in connection with Crime No. 190/2015 registered at Police Station Gol Bazaar, Raipur, Distt. – Raipur (C.G.) for the offence punishable under Sections 409, 420, 34 of the IPC.
2. The case of the prosecution, in brief, is that the complainant namely R.R. Singh, S/o Shri Ram Nihora, proprietor of Balaji Steel, lodged the report in Police Station stating that Smt. Heema Khetan (Applicant No.1), proprietor of Rani Sati Sales and her husband Pankaj Khetan (Applicant No.2) purchased steel rod during the period from 09.02.2015 to 01.08.2015 value of Rs. 74,33,130/- out of which, for remaining balance about Rs.48,33,130/- the applicants issued two cheques to complainant which have been dishonored for want of sufficient fund. It is further alleged that the applicants belong to other State.
3. I have learned counsel for the parties and perused the case diary.
4. Learned counsel for the applicants submits that this is first bail application filed on behalf of the applicants for grant of anticipatory bail, no other

application of this nature is pending before this Court or Court below. He further submits that the applicants have not committed any offence and they have been falsely implicated in crime in question. Even as per case of prosecution there was business transaction between the complainant and applicants and only two cheques of Rs. 25,00,000/- and Rs. 23,33,130/- which were dishonored on the ground of insufficient balance. He further submits that it is purely a civil transaction and the complainant is at liberty to file civil suit or to file complaint u/S 138 of the Negotiable Instruments Act, 1881, but the present case does not fall within four corners of cheating. He relied upon the decision in the matter of Pooja Agrawal v. State of Chhattisgarh passed in M.Cr.C. (A) No. 1301 of 2013 by the co-ordinate Bench of this Court.

5. On the other hand, learned State counsel vehemently opposed the bail application and submits that the applicants well aware of the fact that they are not having sufficient money in the bank and they will not return the money, but despite that they induced the complainant and received the steel of Rs. 74,33,130/- from him and have not paid the amount of Rs. 48,33,130/-. He further submits that the applicants are not the permanent residents of Mahasamund and they are residing in rental house.
6. As per material collected on behalf of the prosecution, the applicants have taken material of Rs.74,33,130/- and issued two cheques amounting to Rs. 25,00,000/- and Rs. 23,33,130/- which have been dishonored on the ground of insufficient balance.
7. Considering the aforesaid peculiar facts and material collected by the prosecution, I am of the opinion that this is not a fit case to extend the benefit of anticipatory bail to the applicants.
8. Accordingly, the application for grant of anticipatory bail is liable to be rejected and is hereby rejected.

Sd/-
(I.S. UBOWEJA)
JUDGE