

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 401 /2016

Govind Rao Mahanti, S/o. M. Krishna Mahanti, Aged About 36 Years, R/o. H.N. 13, Gitanjalipark Mangala Bilaspur, P.S. - Civil Line Bilaspur, Distt. - Bilaspur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Police Station In-charge, P.S. - City Kotwali Bilaspur, District – Bilaspur, Chhattisgarh

---- Respondent

For Applicant : Mr. Bhupendra Singh, Advocate.

For Respondent : Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28/04/2016

1. Apprehending arrest in connection with Crime No.130/2016 registered at Police Station- City Kotwali Bilaspur, District Bilaspur (C.G.) for the offence punishable under Section 420 of Indian Penal Code, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, a report was made by the complainant Sanju Kumar that on 28.08.2015 when he went to the office of Zila Antvyawsayi Sahakari Vikas Samiti, Bilaspur to get the vehicle finance, he met with the applicant and he wanted to get Marshal Zeep financed. The applicant allured him and asked to pay Rs.3 Lacs so that his loan can be sanctioned, therefore, he paid the amount and in lieu thereof the applicant gave him a cheque of Rs.3 Lacs. Subsequently, the loan was not sanctioned and when the cheque was lodged in the Bank, it was bounced; therefore, the offence of cheating has been committed.

3. Learned counsel for the applicant submits that the report itself is highly improbable that after taking the illegal gratification or money, the person will give a cheque in return. He further submits that as per the information gathered from the Zila Antvyawsayi Sahakari Vikas Samiti, Bilaspur, no application for loan was given at the relevant time and he further submits that the price of the vehicle being 5.60 Lacs, it cannot be accepted that to get a loan of Rs.5.60 Lacs an amount of Rs.3 Lacs in cash would be given as bribe. He further submits that this is a false and fabricated case, as the applicant infact has taken a loan of Rs.30,000/- in the year 2014 which was returned with interest of Rs. 45,000/-, however, when further interest was demanded, the cheque was misused; therefore, the applicant may be enlarged on anticipatory bail.
4. Per contra, the learned State counsel opposes the prayer for grant of anticipatory bail and would submit that according to the statement made, the offence has been committed.
5. Perused the statement and the report along-with the documents placed under R.T.I. The complainant had stated that he had paid Rs.3 Lacs in cash to the applicant and in lieu thereof the cheque was given. Prima facie, it appears to be highly improbable and further the document placed under R.T.I. would show that no such scheme was existing at the relevant time. Therefore, taking into the totality and the facts of the case, this Court is inclined to extend the benefit of anticipatory bail to the applicant.
6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on furnishing a personal bond to a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the

concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) 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/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) 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.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge