

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2771 of 2016

- Rajendra Jain S/o B. R. Jain Aged About 42 Years R/o Choubey Colony, Raipur, District - Raipur - Chhattisgarh --- **Petitioner**

Versus

- State of Chhattisgarh Through : P.S. - Azad Chowk, Raipur, District - Raipur Chhattisgarh --- **Respondent**

For the applicant	:	Mr. Sudeep Agrawal, Advocate
For the Respondent	:	Mr. Satish Gupta, Govt. Advocate.
For the Objectors	:	Mr. Ashish Surana & Mr. Ankur Agrawal, Advocates

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

21.06.2016

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 244/2015 registered at P.S. Azad Chowk, Raipur (C.G) for the offence punishable under Section 420, 406, 467, 468 IPC.
2. As per the prosecution case, the applicant who was a partner in M/s. Balaji Buildcon alongwith one Palvinder Singh Gill, Sapna Jain and Jaspal Kaur had misappropriated in the capacity of partner and withdrew different amounts on the basis of forged cheques. It is further alleged that Palvinder breathed his last on 12.12.2014, thereafter the applicant withdrew amounts of Rs.2,00,000/- and Rs. 1,00,000/- by preparing/forging two self-cheques bearing no. 040703 dated 16.05.2015 and 040707 dated 28.05.2015 drawn on Union Bank, Raipur Branch bearing signatures of dead person Palvinder Singh. Further it is alleged that forged signatures were made to reduce the partnership share

capital of other partner Sapna Jain, therefore, on a report being made investigation commenced and the offence was found to be committed.

3. Learned counsel for the applicant submits that Rajendra Jain the applicant is a partner to the Balaji Buildcon and the offence is alleged to be committed in between 2013 to May 2015 whereas Palvinder Singh died on 12.12.2014 and till the death of Palvinder Singh, no report of embezzlement of forged cheque was made. It is submitted that Palvinder Singh was operating the bank accounts of the partnership firm and it is an out and out dispute between the partners of the firm which has been given a colour of criminality. He further submits that the FIR reads that written report was made on 10.09.2015 wherein it was alleged that a defalcation of Rs.1,49,00,000/- was not accounted. It is also submitted that the FIR further speaks that by forged signatures, Ford Eco car was also purchased for his personal use without obtaining the consent of other partners. Learned counsel for the applicant further submits that all the allegations if are read together alongwith the statement would show that the entire dispute is in between partners for which the partnership provides for settlement of dispute by an arbitrator instead the other route has been adopted. He further submits that charge sheet has been filed and the applicant is in jail since 14.12.2015, therefore, the applicant may be enlarged on bail.
4. Per contra, learned State Counsel as also learned counsel for the objectors oppose the bail. It is contended that after death of Palvinder Singh certain amounts were withdrawn with his signature by the applicant i.e., 2 lakhs on 16.05.2015 and Rs. 1 lakh on 28.05.2015 which would go to

show that though Palvinder Singh breathed his last, the said amounts were withdrawn by forging his signatures at the instances of the applicant. It is further submitted that forged signatures were also made on the documents therefore the applicant may not be enlarged on bail.

5. Perused the case diary and documents. It shows that charge sheet which contains voluminous documents has been filed. A perusal of the such voluminous charge sheet would show that certain cheques have been filed which are alleged to be forged. A perusal of the documents would further go to show that there was *interse* dispute between the partners of the firm.
6. Considering the evidence which is in documentary nature and as there was interse dispute between the partners of the partnership firm as also considering the fact that the charge sheet in this has been filed; offences are triable by the JMFC; the trial may take some time and considering the degree of allegation and also the fact that the applicant is stated to be in jail since 14.12.2015, I am inclined to release him on regular bail.
7. Accordingly, the bail application is allowed and the applicant is directed to 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. He shall also appear before the trial Court as and when directed by the said Court.

C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE