

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3370 of 2016

Pukesh Chandrakar, S/o. Late Dileshwar Chandrakar, Aged About 32 Years, R/o. Village Anda Bazar Chowk, P.S. Anda, Civil & Revenue District Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through P.S. Anda, Civil & Revenue District Durg, Chhattisgarh

---- Respondent

For Applicant : Mr. Manoj Paranjpe, Advocate

For Respondent : Mr. O.P.Sahu, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

07.07.2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.51/2012 registered at Police Station- Anda, District Durg (C.G.) for the offence punishable under Section 420, 467, 468, 471, 472 & 473 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that a complaint was filed by one Santosh Kumar Kichalu before the Judicial Magistrate First Class wherein a direction was passed under Section 156(3) of Cr.P.C. to register an FIR and accordingly the FIR was registered on 31.01.2012. It was alleged that the complainant has passed on an amount of Rs.1 Crore in between the period from 2007 to 2008 so as to become the Partner to the extent of 40% in the Firm M/s. Goutam Tractors & Auto Parts, which is being carried out by the present applicant and thereafter as a security thereto 6 cheques

were given along-with an affidavit and when the cheques were lodged they were bounced because of stop payment, therefore, the fraud has been committed. It is further case of the prosecution that the affidavit which was initially executed on 06.09.2008 was forged and on the basis of that forged documents, total amount of Rs.1 Crore was paid.

3. Learned counsel for the applicant would submit that the complainant who is stated to be the employee of Bhilai Steel Plant without any support has alleged that he has paid Rs.1 Crore and actually two agreements were earlier executed in respect of sale of land on 15.09.2007 and 14.03.2008 by the applicant and his brother and the allegations if are taken on their face value, it will not make out a case. It is further submitted that the documents filed along-with this bail application would show the income tax return filed by the employee of Bhilai Steel Plant is on the salary and the oral statement of payment of 1 Crore prima facie would be shown to be wrong. Learned counsel further submits that initially an amount of part performance was received for sale of immovable property but subsequently the sale consideration has been returned to the complainant which would be evident from the payment and the bank statement filed alongwith this bail application. He further submits that the charge sheet has been filed and considering the nature of allegation, the applicant may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail and he would submit that on the basis of forged affidavit dated 06.09.2008, the applicant has received an amount of Rs.1 Crore and the share of 40% was assured to be given by the applicant in his Firm M/s. Goutam Tractors & Auto Parts and since the amount

was procured by forged documents, therefore, the applicant may not be released on bail.

5. The charge sheet has been filed in this case. Perused the charge sheet, statements and the documents which are documentary in nature. Prima facie, it appears that commercial transaction as also for sale of immovable properties were carried out in between the parties. Considering the nature of offence and degree of allegation and further considering the fact that the charge sheet has been filed, I am inclined to release the applicant on bail.
6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
7. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge