

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 1241 /2015

Rakesh Dubey, S/o Late Shri Ramdeen Dubey, Aged About 55 Years, R/o House No.11, Manviya Vihar Colony, New Rajendra Nagar, Post-Rajendra Nagar, Tehsil & District Raipur (Chhattisgarh)

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station- City Kotwali, Raipur, Chhattisgarh

---- Respondent

For Applicant : Mr. Maneesh Sharma, Advocate.

For Respondent : Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

07/01/2016

1. Apprehending arrest in connection with Crime No.343/2015 registered at Police Station- City Kotwali, Raipur (C.G.) for the offence punishable under Section 420, 406 r/w 34 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 story, in brief, the complainant Vahiduddin had given an amount of Rs.6 Lakhs to the applicant and his brother to purchase Gold as they were dealing with the business of Gold & Silver. Subsequently, neither the Gold was given nor the amount was returned. It is alleged that subsequently when the complainant went to their shop which was earlier being run as Banaras Jewelers which was changed as Buddha Jewelers and on enquiry it was stated that both the brothers have interse partitioned the business. Consequently, neither the amount nor the cheque was given, as such, the offence has been committed.

3. Learned counsel for the applicant submits that admittedly the applicant and his brother had obtained a hand loan of Rs.6 Lakhs for which an agreement was executed and since the loan could not be repaid, as such, the proceedings under Section 138 of Negotiable Instrument Act has also been registered, which is pending before the Judicial Magistrate; certified copy of the same is annexed as Annexure A-3. Therefore, he would submit that the entire nature of the allegations are false and the applicant has been falsely implicated just as an arm twisting method by filing the complaint, therefore, he may be enlarged on anticipatory bail.
4. Per contra, the learned State counsel opposes the prayer for grant of anticipatory bail.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Perusal of the case diary would show that the agreement is also seized which purports that an amount of Rs.6 Lakhs have been obtained on loan by one Sohan Dubey, which is also known to the applicant, he being the brother. Perused the certified copy of the complaint filed by the complainant against the present applicant, his brother and Banaras Jewelers as the cheque which was given was bounced; therefore, taking into totality of the facts and circumstances of the case, it appears primarily that it was the case of monetary transactions and recovery. In facts of the case, I find it to be a fit case to extend the benefit of Section 438 of Cr.P.C.
7. Accordingly, the anticipatory bail application is allowed.
8. 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