

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 8151 of 2016

- Bholeshwar Deewan S/o Chhedilal Deewan Aged About 25 Years
R/o. Village Bhanpuri Police Station Farasgaon Revenue And Civil
District Kondagaon Chhattisgarh --- **Applicant**

Versus

- State of Chhattisgarh through the Police Station Kondagaon, District
Kondagaon Chhattisgarh --- **Respondent**

For the applicant	:	Mr. Praveen Tulsyan, Advocate
For the Respondent	:	Mr. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

21.12.2016

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. 166/2016 registered at P.S. Kondagaon, Distt. Kondagaon (C.G) for the offence punishable under Section 407 IPC.
2. As per the prosecution case, a report was made by one Dhaniya Ram who is engaged in purchase and selling of corn has sent the same through the transport of the applicant for selling and on 09.06.2016 Rs.3 lakhs was received by the applicant by selling the corn, out of which, 1 lakh was given to the complainant and on 27.06.2016, Rs.3,49,920/- was received by the applicant by selling corn, however, only the amount of Rs.21,000/- was paid to the complainant and the remaining Rs.3,28,900/- was pending due and again on 04.07.2016, the applicant received Rs.2,24,016 from Paaras Traders and nothing was paid to the complainant. It is alleged that out of the total amount of Rs.8,73,936/- the complainant has received only Rs.1,21,000/- and the applicant ran away with remaining amount of Rs.7,52,936/-,

thereby the offence has been committed.

3. Learned counsel for the applicant would submit that only on the basis of oral evidence, the offence has been registered and some cash has been seized from the applicant and it is not probable that when the repeated defalcations have been made by the applicant, the assignments would be further given to the transport of the applicant for selling the produce. He further submits that the charge sheet has been filed and the applicant is in jail since 17.07.2016, therefore, he may be enlarged on bail.
4. Per contra, learned State Counsel opposes the bail.
5. Perused the statement and report of the complainant. The allegation of non-payment of amount has been clamped on the applicant and the oral statements have been made.
6. Taking into the totality of facts and circumstances of the case especially the fact that the charge sheet has been filed and the applicant is stated to be in jail since 17.07.2016, without any observation on merits of the case, I am inclined to release him on bail.
7. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on 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 till disposal of the trial.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**