

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. No. 5028 of 2017

Mansukhlal Sonwani S/o Khomlal, aged about 53 years, R/o village Devri (D), Police Station Arjunda District Balod (C.G.).

--- Applicant

Versus

State Of Chhattisgarh Through the Police Station Basantpur, District Rajnandgaon (C.G.).

---Non-applicant

For Applicant	:	Shri Gagan Tiwari on behalf of Shri S.S.Baghel, Advocate.
For Respondent/State	:	Shri D.R.Minj, Dy.G.A.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

24/11/2017

1. The applicant has preferred this bail application under Section 439 of Cr.P.C. in connection with Crime No.136/2017 registered at Police Station Basantpur, District Rajnandgaon (C.G.) for the offence punishable under Section 420 & 34 of I.P.C and Section 10 of the C.G.Nischepako Ke Hito Ka Sanrakshan Adhiniyam 2005 & Niyam 2015.
2. Present applicant is in jail since 29/04/2017.
3. The allegation against the present applicant as per the prosecution story is that, he has with malafied intention got an amount of Rs.9.5 Lakhs belonging to the complainant Rajwanteen Bai Sahu deposited in his bank account and thereafter the present applicant is said to have withdrawn a substantial portion of that amount without the knowledge and permission of the complainant and have invested the money by purchasing bonds of Aarogya Dhanvarsha Developers and Allied Co.Ltd.
4. The allegation against the present applicant is that, he has played fraud with the complainant by getting the amount deposited in his account

and thereafter mis-utilizing the said amount without the knowledge, consent and permission of the complainant.

5. The counsel for the applicant submits that, the dispute between the present applicant and the complainant-Rajwanteen Bai is nothing but a pure civil dispute and that there is no ingredients available making out a criminal offence and the present applicant is in jail from about 7 months and therefore, the present applicant now deserves to be release on bail.

6. The State counsel on the contrary opposing the bail application submits that, it is a case where the present applicant is said to have played fraud with an illiterate lady aged around 65 years by firstly forcing her to get the amount of around Rs.9.5 Lakhs deposited in his bank account and thereafter without her knowledge withdrawn a substantial portion of that amount and have invested the money by purchasing bonds of Aarogya Dhanvarsha Developers and Allied Co.Ltd.

7. It is alleged that, there was another co-accused Narayan Singh and perusal of record show that, the said co-accused has already been released by this Court vide order dated 15/06/2017 in MCRC No.3969/2017.

8. Further what is undisputed is that, the amount of money belonging to the complainant-Rajwanteen Bai with her knowledge, consent and agreement was deposited in the account of the present applicant. The reason to deposit the money in the present applicant's account was un-availability of pan card in the name of the complainant.

9. Undisputedly, the money used by the present applicant for purchasing the bonds of Aarogya Dhanvarsha Developers and Allied Co.Ltd. was from the bank account which was in existence in the name of the present applicant and he had every right to use his money which was

lying in his account. If at all if there is any grievance of the complainant- Rajwanteen Bai, the same could only be of refund of the money which she can claim from the present applicant as she had voluntarily and willingly given the amount to deposit in the account of the present applicant.

10. Given the factual matrix of the case, prima facie, the dispute seems to be a pure civil dispute between the parties and that the ingredients to make out a criminal offence is not available.

11. Therefore this Court is of the opinion that, prima-facie, a strong case has been made out for grant of bail to the present applicant.

12. Accordingly, the application for grant of bail is allowed. It is ordered that the applicant shall be released on bail on his executing 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. The applicant shall thereafter appear before the Trial Court on each and every date given by the said court.

Sumit

**Sd/-
(P. Sam Koshy)
Judge**