

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 5839 of 2017**

B.N. Mishra S/o Late Shri Devnath Mishra, Aged About 60 Years R/o
796/ Kailash Nagar, Bhilai, District Durg, Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station
Jamul, District Durg, Chhattisgarh

----Non-applicant

For Applicant	:	Mr. Mateen Siddiqui, Advocate
For State	:	Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order on Board****27/11/2017**

1. This is an application filed under Section 439 Cr.P.C. for grant of bail to the applicant, who has been arrested in connection with Crime No. 175/2017 registered at Police Station Jamul, District Durg, Chhattisgarh for the offence punishable under Section 420 and 34 of Indian Penal Code, 1860.
2. The present applicant is in jail since 17.08.2017 in connection with the aforesaid Crime number.
3. The allegation against the present applicant is that the present applicant, who is the Proprietor of Vishal Structural Fabrication, Bhilai was in need of some financial assistance and the present applicant in turn, took assistance of the complainant Anand Jimnani for the same, who being a Chartered Accountant had arranged an amount of Rs.96 lakhs to the present applicant. Later on, an agreement to sale of a property in the name of the applicant was also executed, but the present applicant is said to have refused to get the property registered in the name of the complainant or in the

name of any other person. At the same time, the complainant also is said to have issued cheque in favour of the complainant, which on presentation got dishonoured.

4. Counsel for the applicant submits that it is a case where the present applicant had sought the financial assistance of the complainant Anand Jimnani and who had voluntarily supported the present applicant as per the prosecution case and if this story is to be accepted, then the dispute becomes a pure civil dispute and at least if at all, if the complainant was aggrieved of, he could have initiated proceedings against the present applicant under the provisions of Negotiable Instruments Act for dishonouring of the cheque on insufficient fund. Thus, prayed for the applicant to be released on bail.
5. The State counsel on the contrary opposes the bail application and submits that the present applicant from the outset had a prima facie intention of cheating the complainant and in the process have received Rs.96 lakhs and is showing no interest for the refund of the same and the repeated cheques which were being issued by the present applicant were also getting dishonoured and thus prayed for the rejection of the bail.
6. Having heard the contentions put forth on either side and on perusal of records considering the total facts and circumstances of the case, particularly the fact that the complainant Anand Jimnani having voluntarily arranged for the amount to be paid to the present applicant and subsequently issued a cheque as surety which on presentation having got dishonoured on account of insufficient fund,

prima facie, the complainant had a remedy of initiating proceedings under the Negotiable Instruments Act, instead of filing a complaint under Section 420 of IPC against the present applicant.

7. In the given factual matrix of the case, this Court is of the opinion that prima facie a fit case has been made out for grant of bail. Accordingly, the present application for grant of bail is allowed.
8. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance before the said Court as and when directed.

Sd/-
(P. Sam Koshy)
Judge

Ved