

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case No.2540 of 2017**

- Bilal Khan S/o Jalal Khan Aged About 35 Years R/o Arafat Complex Block -A, Plot No. A/05 -B Ranchi, Jharkhand

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station- Gandhinagar, District Surguja, Chhattisgarh.

---- Respondent

For Applicant	: Shri Amar Nath Pandey, Advocate
For Respondent/State	: Shri Sumit Jhavar, Panel Lawyer

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****31.7.2017**

Heard the matter finally.

2. This is an application filed under Section 439 of the Cr.P.C. for grant of regular bail to the applicant, who has been arrested in connection with Crime No.257/2016 registered in Police Station Gandhinagar, Distt. Surguja at Ambikapur (CG) for the offence punishable under Sections 420/34 of the Indian Penal Code.

3. Learned counsel for the applicant submits that the applicant has been arrested on 21.01.2017, after investigation police has filed charge sheet which is pending before Chief Judicial Magistrate, Ambikapur as Criminal Case No.348/2017. It is submitted on behalf of the applicant that charge sheet is filed against two accused persons including present applicant. Against co-accused Abu Umar Khan charge sheet has been filed under

Section 299 of Cr.P.C. The applicant is in custody in the present matter since six months ten days, the trial may take sometime for its conclusion. As per the allegation, for the sake of installation of air cooling system, the applicant has taken Rs.1,50,000/- from one Ali Akhtar Rizvi, R/o. Ambikapur and the said air cooling system was not installed, thereafter he lodged FIR that the present applicant along with co-accused by sharing common intention cheated him and have taken an amount of Rs.1,50,000/- dishonestly. As per the documents annexed (Annexure-A/4) along with the present bail application, on 14.12.2016 from the account of co-accused Abu Umer Khan, brother of the present applicant, Rs.1,50,000/- has been deposited in the bank account of the complainant Ali Akhtar Rizvi in the A/c. No.700104000003445. The bank A/c. Number of brother of the applicant and the co-accused is 029201514501. With this, the amount alleged in total is returned to the complainant. Now the alleged allegation is that the applicant has not carried out the said installation as agreed on transfer of said amount, but for the moment money given by the applicant is not with the accused. Hence, now the matter became like any civil dispute for which complainant may sue if he wish so. The applicant is in custody since long, he will not commit any offence in future, he may be granted bail

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and would submit that as per the charge sheet till filing of the charge sheet i.e.

30.3.2017 the facts regarding return of the money was not communicated by the accused to the Investigating Officer. Hence, looking to the entire facts, the instant bail application may be dismissed.

5. Perused the entire material.

6. Looking to the fact that as per Annexure-A/4, the amount taken for installation of Air cooling system is returned to the complainant. Upon consideration of the entire facts as argued, without commenting anything on its merits, I am inclined to grant last opportunity to the applicant so that he will not commit any offence in future and shall remain peacefully in the society.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.50,000/- with one solvent surety of like sum amount to the satisfaction of the concerned trial Judge for his appearance before the said Court as and when directed.

9. It is made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; and (iv) the

trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE

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