

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 319 of 2017**

1. Lalji Prasad S/o Late Radhelal, Aged About 72 Years R/o 24 B.G.E. Supela, Bhilai, Tahsil & District Durg, Civil & Revenue District Durg, Chhattisgarh.
2. Anurag Chandra, S/o Shri Lal Ji Prasad Aged About 24 Years R/o 24 B.G.E. Supela, Bhilai, Tahsil & District Durg, Civil & Revenue District Durg, Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Newai, District Durg, Chhattisgarh.

---- Non-applicant

For Applicants:	Mr. B.P. Sharma with Mr. Vivek Chopda, Advocates
For State:	Mr. N.K. Mehta, Panel Lawyer

SB: Hon'ble Shri Justice P.Sam Koshy**Order On Board****17.05.2017**

1. Apprehending arrest in connection with Crime No. 39/2017 registered at Police Station- Newai, District - Durg (C.G.), for offence punishable under Section 420/34 of the Indian Penal Code, the applicants have preferred this application for grant of anticipatory bail.
2. The case of the prosecution against the present Applicants is that the alleged complaint has been lodged by the Complainant Vishnu Pathak on 25.02.2017 alleging that the present Applicants is said to have suppressed material facts from the Complainant while executing the partnership deed so far as the assets and liability which were there in which the Complainant is said to have been made a partner having share of 49% in the firm M/s Parul Glow

Signs. The allegation made by the Complainant is that he has been made to pay an amount of Rs. 46 Lakhs to the present Applicants for being made a partner of 49% of share in the firm, but at the time of said transaction the present Applicants did not disclose the fact that there was huge amount of loan already taken by the present Applicants in the name of the said firm and that they had defaulted in making the repayments in respect of the loan which they had taken from the respective banks.

3. Learned Counsel for the Applicants submits that the present Complaint has been lodged only to counter the proceedings before the Debt Recovery Tribunal which have been initiated by the Bank against the firm in respect of the loan. It was also contended that the only allegation against the present Applicants is that of not disclosing the liability part to the Complainant whereas it was the duty of the Complainant to have first verified these facts before making huge investment with the present Applicants.
4. Learned State Counsel opposing the bail application submits that it was duty of the present Applicants to have disclosed the entire liability part in respect of the firm and also should have intimated the Complainant in respect of the loan which was in existence from the banks in the name of the firm at the time the Complainant was being made partner in the said firm.
5. Be that as it may, a perusal of the record would reveal that the only allegation is of suppression of loan of the company, taken by the present Applicants, this Court is of the opinion that when a person intends to make huge investment in a firm or that he intends to become partner of a firm, it is his duty and responsibility to have verified whether there is any liability in the name of the said firm which in the present case does not seem to have been verified by the present Complainant.

6. For the aforesaid reasons, this Court is inclined to extend the benefit of anticipatory bail to the Applicants.

7. Accordingly, the MCRCA is allowed.

8. It is directed that in the event of arrest of the Applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on executing a personal bond in sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The Applicants shall also abide by the following conditions :

- (i) that the Applicants shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that the Applicants 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 Applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the Applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-

(P. Sam Koshy)
JUDGE