

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 342 of 2017**

- Suresh Nihichalani S/o Late Idandas Aged About 37 Years R/o Flat No. 101, Block B Impresia New Rajendra Nagar, Police Station New Rajendra Nagar, Raipur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through The Police Station Telibandha, District- Raipur, Chhattisgarh

---- Non-applicant

For Applicant:	Mr. Vikram Singh and Mr. N.K. Thakur, Advocates
For State:	Mr. Ashish Shukla, Government Advocate
For Objector :	Mr. B.P. Sharma, Advocate

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

1. Apprehending arrest in connection with Crime No. 149/2017 registered at Police Station- Telibandha, District - Raipur (C.G.), for offence punishable under Sections 420 and 406 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. The allegation as per the prosecution is that the Complainant filed a case before the J.M.F.C. Raipur under Section 200 of the Cr.P.C.. On the basis of which a direction was issued under Section 156(3) of the Cr.P.C. to the Police Authorities to lodge complaint on the basis of which said case has been registered against the present Applicant. The case against the present Applicant is that he had issued a cheque to the Complainant for an amount of Rs. 22 Lakhs

in April, 2015. The said cheque on presentation before the bank got dishonoured on account of insufficient fund.

3. Learned Counsel for the Applicant submits that against the said dishonouring of the cheque a proceeding under Section 138 of the N.I. Act. has already been initiated by the complainant which is still pending before the J.M.F.C. Raipur. Thereafter, fresh case under Section 200 of the Cr.P.C. was filed before the J.M.F.C. Raipur who in turn directed for registration of FIR against the present Applicant. On the basis of which the present case has been registered against him. He further submits that since the proceeding under Section 138 of the N.I. Act is pending, the present case is not tenable.
4. Learned Counsel for the Objector Shri B.P. Sharma refers to the decision of the Hon'ble Supreme Court in case of *Sangeetaben Mahendrabhai patel v. State of Gujrat* [AIR(SC) - 2012-0-2844].
5. Taking into consideration the fact that for the dishonouring of cheque for insufficient fund, proceeding under Section 138 of the N.I. Act has already been initiated which is pending consideration and it is by way of a subsequent filing of the criminal complaint, that the present proceeding has been initiated, in the opinion of this Court prima facie a strong case for grant of anticipatory bail has been made out.
6. Accordingly, the MCRCA is allowed.
7. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

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

Sd/-

(P. Sam Koshy)
JUDGE