

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. (A) No.738 of 2015

Omnanarayan Singh @ Munna Singh Thakur, aged about 56 years, son of late Shri Surajpal Singh Thakur, resident of House No.534/20, Navdurga Nagar, Santoshi Nagar, Police Station Tikrapara, Raipur, District Raipur (Chhattisgarh)

---- Applicant

Versus

1. State of Chhattisgarh, through: the Station House Officer, Police Station Tikrapara, Civil and Revenue District Raipur (Chhattisgarh)
2. Jagannath Singh, son of late Shri C. Ramsharan Singh, aged about 67 years, resident of Gomati Nagar, Kuckhnow (Uttar Pradesh)

---- Non-applicants

For Applicant	:	Mr.Awadh Tripathi, Advocate
For Non-applicant No.1	:	Mr.P.K.Bhaduri, Government Advocate
For Non-applicant No.2	:	Mr.Pawan Kesharwani, Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

5/1/2017

1. The applicant has filed this application under Section 438 of the Code of Criminal Procedure, 1973 (hereinafter referred to as, 'the Code') for grant of anticipatory bail, apprehending his arrest in Crime No.470 of 2014, registered at Police Station-Tikrapara, District Raipur (CG) for the offence punishable under Section 420 of the IPC.
2. Case of the prosecution, in brief, is that the applicant has issued 12 cheques i.e. 11 cheques of ₹ 8,50,000/- each and 1 cheque of ₹ 2,50,000/- knowing fully well that the cheques were drawn against that account which has closed on that day and thereby committed the offence.
3. Learned counsel appearing for the applicant would submit that the applicant has not committed any offence and he has falsely been implicated in crime in question as he has admittedly obtained ₹ 1

Crore from Smt.Madhurima Singh, wife of complainant Jagannath Singh on 5.3.2011 which he has returned on 3.1.2013 and that transaction is closed. Smt.Madhurima Singh has also issued acknowledgment dated 5.3.2011 and promised that she will return the said cheques, but she has not returned the cheques leading to issuance of notice dated 31.3.2013 for taking necessary action, which she has not replied leading to filing of the suit on 6.3.2013 for declaring the agreement executed by the applicant in favour of Smt. Madhurima Singh as null and void and declaring 12 cheques issued by him in favour of Smt. Madhurima Singh as null and void and as a counter-blast, F.I.R. has been lodged on 30.8.2014. He would further submit that against dishonoured of 12 cheques issued by the applicant no complaint under Section 138 of the Negotiable Instruments Act, 1882 has been filed by Smt. Madhurima Singh and straightway complaint has been filed by her husband to the Police Station, in which offence under Section 420 of the IPC has been registered against the applicant. He would rely upon the judgment of the Supreme Court in the matter of **Ravindra Saxena Vs. State of Rajasthan**¹.

4. On the other hand, Mr.P.K.Bhaduri, learned Government Advocate appearing for non-applicant No.1 and Mr.Pawan Kesharwani, learned counsel appearing for non-applicant No.2, would submit that the applicant knowing fully well that there is no live bank account, issued 12 cheques, which clearly amounts to cheating to wife of the complainant.
5. I have heard learned counsel appearing for the parties and perused the case diary.

¹ (2010) 1 SCC 684

6. Taking into consideration the nature & gravity of the offence, facts & circumstances of the case, nature of transaction, the fact that civil suit is pending between the parties, no complaint under Section 138 of the Negotiable Instruments Act has been filed by the complainant and F.I.R. has been lodged after institution of civil suit by the applicant against wife of the complainant, I am of the view that it is a fit case to grant anticipatory bail to the present applicant. Accordingly, the application is allowed.
7. It is directed that in the event of arrest, applicant-Omnarayan Singh @ Munna Singh Thakur shall be released on bail on his furnishing a bond in the sum of ₹ 25,000/- with one surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:
- (i) that the accused/applicant shall make him available for interrogation before the concerned Investigating Officer as and when required;
 - (ii) that the accused/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 accused/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/-

(Sanjay K. Agrawal)
JUDGE

B/-