

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3769 of 2017**

Vikash Sharma S/o Kailash Sharma aged about 40 years R/o Near the Dainik Bhaskar Office Jagatpur Karmal School Raigarh District Raigarh (CG)

Applicant**Versus**

State of Chhattisgarh through the Station House Officer Police Station Civil Line Bilaspur District Bilaspur (CG)

Respondent

For Applicant	: Shri Awadh Tripathi, Advocate.
For Respondent	: Shri Adhiraj Surana, Deputy Government Advocate.
For Objector/Company	: Shri Sunil Otwani, Advocate.

Hon'ble Shri Justice P. Sam Koshy**Order On Board****15.06.2017**

1. 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.56/2016 registered at Police Station Civil Line, Bilaspur District Bilaspur for the offence punishable under Sections 409, 420, 467, 471, 120B/34 of the IPC.
2. Case of the prosecution, in brief, is that present applicant had by playing fraud and mischief obtained loan from, the L&T Finance Company, amounting to Rs.1.30 Crores. Thereafter, for the purpose of obtaining the loan, he has submitted certain documents which were found to be not proper and those documents were in fact, misused for the purpose of obtaining loan. The case of the prosecution is that for the purpose of obtaining loan, the present applicant and other co-accused Abhishek Mohanti, who was the Branch Manager of L&T Finance Company have connived together and in the

process, have used certain documents of one Prashant Kumar Swain and Rajeev Kapoor placing them as a guarantor for the loan which was applied for by the present applicant. It is found that except for depositing of the first EMI payable to the finance company, the applicant had not repaid any amount payable to the finance company. Later on, when the notices were issued to the guarantors as well as to the present applicant who had taken the loan, it was detected that the persons who stood as guarantors of the present applicant had simply denied having any involvement in the loan which was sanctioned in favour of the applicant. Subsequently, a complaint was lodged against the present applicant, on the basis of which, the applicant was taken into custody on 24.3.2017.

3. Learned counsel for the applicant submits that it is a case where the nature of dispute is purely a civil and money dispute of mandatory nature between the present applicant and that of the finance company and there is no criminal act involved in the said case. He further submits that co-accused person, namely, Prashant Kumar Swain has already been granted anticipatory bail by this Court. Therefore, the applicant may be released on bail on the ground of parity. He further submits that present applicant has not received any payment from the Finance Company and the entire money has either been given to the TATA motors from where the vehicles had to be purchased or to the Company where the body of the vehicles were to be prepared. He also submits that the applicant even could not use the vehicle for commercial purpose at any point of time, with which he could refund the loan money that he had taken.
4. On the other hand, learned counsel for the State however opposes the bail application and submits that taking into consideration the nature of allegation which have come in the course of investigation, it apparently appears that the applicant had played fraud alongwith co-accused Abhishek Mohanti who is

also in jail by misusing the documents of one Rajeev Kapoor and Prashant Kumar Swain and have fraudulently obtained the loan to the tune of Rs.1.30 Crores. He further submits that bail application of co-accused Abhishek Mohanti had been filed but subsequently, was dismissed as withdrawn.

5. I have heard the counsel appearing for the parties.
6. A bare perusal of the order passed in the case of Prashant Kumar Swain wherein he was granted anticipatory bail, the stand of Prashant Kumar Swain and that of the other guarantor Rajeev Kapoor is identical in nature, they stated that they are not acquainted with the present applicant at all and they have never produced any document nor have stood as guarantors of the present applicant. So far as Prashant Kumar Swain is concerned, his case was that he had in fact applied for loan at the L&T Finance Company and for which, he had submitted some documents, which was subsequently turn down and it was those documents which was placed by the present applicant as documents of the guarantors, on the basis of which, the present applicant could obtain with the aid of co-accused Abhishek Mohanti, who was the Branch Manager of L&T Finance Company at the relevant point of time.
7. Considering the totality of the facts and circumstances of the case, particularly the nature of allegation levelled against the present applicant, this Court is not inclined to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is rejected.
9. Certified copy as per rules.

Sd/-
(P. Sam Koshy)
Vacation Judge