

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 753 of 2017**

Nawneet Singh Tuteja @ Bittu S/o Amarik Singh Tuteja, Aged About 43 Years R/o Near United Blood Bank Govind Nagar, Near Raja Pond Raipur Tahsil & District Raipur, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh through P. S. Telibandha Raipur Distt. Raipur, CG.

---- Respondent

For applicant	Ms. Sangita Mishra, Adv.
For Respondent/State	Mr. O.P. Sahu, Govt. Adv.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****14-9-2017**

1. Heard finally.
2. The applicant has preferred this application under Section 438 of the Cr.P.C. for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 317/2017 registered in PS Telibandha, Raipur, distt. Raipur (CG) for offence punishable under Section 420 of the Indian Penal Code, 1860.
3. Learned counsel for the applicant submits that the applicant is engaged in the business of Sahukari. He had taken Rs. 1,02,00,000/- from the complainant for opening a school at Naya Raipur. As the complainant suffered loss in his business he was not in a position to return the money and thereafter he gave Hundi for the money outstanding, also gave some cheque to the complainant. Said cheque got bounced as necessary amount was not available in the account. He further submits that if the cheque was bounced, appropriate forum for the complainant was to file a complaint petition under Section 138 of the Negotiable Instruments Act, 1881 and if money is not returned as the transaction was of civil nature, the complainant should have filed civil suit to recover the money from the applicant. Also the

present applicant reported regarding the problem being created by non-applicant Salim Umrani, Rafiq Umrani. Police registered the same under the head of Section 155 of the Cr.P.C.. With this if the said matter is a non-cognizable offence, equally on the basis of the said fact, the FIR lodged by the complainant may also be treated as matter of civil nature. Looking to the entire nature of the transaction as it is of civil nature, the applicant may be granted anticipatory bail. He is first offender and will not commit any offence in future.

4. Per contra, learned counsel for the State opposes the arguments advanced on behalf of the applicant and submits that the applicant gave written complaint to the police that the applicant had taken Rs. 1,02,00,000/- for opening a school but the said money was never returned. Promissory note signed by the applicant was also seized. The cheque given by the applicant of Rs. 6 lacs has bounced. With this, prima facie ingredients of Section 420 of the IPC are surfaced hence looking to the huge amount involved, instant MCRCA may be dismissed.
5. Perused the entire matter.
6. On consideration of the entire facts surfaced in the case diary without commenting anything on its merit, I do not see that this is a fit case for grant of anticipatory bail.
7. Consequently instant MCRCA is dismissed.

Sd/-
(Chandra Bhushan Bajpai)
Judge