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**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 815 of 2017**

- Deepak Dhalla S/o Prabhu Dayal Dhalla Aged About 30 Years R/o 112 Govind Puri Kankar Khera, Meerut, U P ( Presently Residing At Flat No. 401 , Baroda House Apartment, Sector 10 Plot No. 40 A Dwarka Delhi.

**----Applicant****Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Azad Chowk Raipur District Raipur Chhattisgarh.

**---- Respondent**


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| For Applicant        | : | Shri Jaspreet Singh Raj, Advocate with Shri<br>Rahul Tamaskar, Advocate |
| For Respondent-State | : | Shri D.K. Wankhede, GA for the State                                    |

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**Hon'ble Shri Justice Goutam Bhaduri****Order On Board****29/11/2017**

1. The applicant has preferred this bail application under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail as he is apprehending his arrest in connection with Crime No.234/2016, registered at Police Station- Azad Chowk, Raipur, District Raipur for offence punishable under Section 420/34 of the IPC.
2. As per the prosecution case, a report was lodged by one Pratik Bais, who is the Director of Ferry Flying Aviation, in the Police Station Azad Chowk, Raipur, wherein it was stated that he had booked an Air Ambulance on behalf of one Ku. Rishika Singh and an amount of Rs.640000/- was deposited, wherein the air ambulance was to be sent on 11.08.2016, however, the air ambulance did not reach to the Raipur on the date,

therefore, he had returned the amount of Rs.640000/- to Rishika Singh. Subsequently, it is stated by the complainant that on different dates certain amounts were returned by Wisler Aviation and amount of Rs.82000/- remained, which the directors of the company did not return and the Amit Dhalla was one of the Directors along with Amit Sharma, therefore, the FIR was lodged against Amit Sharma & Amit Dhalla. After the registration of the FIR and after investigation, it was revealed that Deepak Dhalla, who is brother of the Amit Dhalla, in connivance with Amit Dhalla has committed the offence. Subsequently, Deepak Dhalla was arrested on 23.05.2017 at Delhi and Transit Bail was sought for by the Investigation Officer of Azad Chowk Police Station, Raipur and the Chief Metropolitan Magistrate granted the Transit Bail to the applicant with a direction to appear before the Court of JMFC on 07.06.2017 and to deposit an amount of Rs.1 Lakh, each by Amit Sharma and Deepak Dhalla. Thereafter, when the Anticipatory Bail was applied for before the Sessions Court, Raipur, which was rejected. Hence this application is filed for Anticipatory Bail.

3. Learned counsel for the applicant would submit that the order of the Sessions Court would reveal that that the statement made in the F.I.R. and the statement made under Section 161 of the Cr.P.C. was completely changed and it would be evident from the rejection order and it is further submitted that the allegation would show that the entire nature of transaction was a commercial transaction in between the parties. He would further submit that the endorsement in the order of the Sessions Court would show that the Anticipatory Bail was filed before the Sessions Judge on 07.06.2017, meaning thereby the applicant presented himself before the Court along with his Advocate, however, the same was rejected, and, one of the co-accused Amit Sharma, who surrendered before the JMFC was taken

into custody and was released on bail subsequently. Therefore, the applicant has not fled away with the jurisdiction of the Court and their right to apply for anticipatory bail before the Sessions Court and having been rejected they have filed this application. He would further submit that since the order of the Chief Metropolitan Magistrate, Delhi would show that the entire allegation is for an amount of Rs.77000/- and the amount of Rs.1 Lakh has already been deposited, therefore, this would show the intention of the applicant. He would further submit that no further custodial interrogation is required, therefore, the applicant may be enlarged on anticipatory bail.

4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
5. I have gone through the F.I.R., statement of Prateek Bais and the case-diary. The documents filed along with the bail application would show that initially the applicant was enlarged on transit bail and the Chief Metropolitan Magistrate, Delhi had directed the applicant to deposit an amount of Rs.1 Lakh along with other co-accused totaling to Rs.2 Lakhs before the JMFC, Raipur and appear there on 07.06.2017. The order of the Sessions Judge would show that the application for anticipatory bail was filed on 07.06.2017 before the Sessions Judge, consequently, it can be assumed that the applicant has presented himself before the Court of Sessions Judge on 07.06.2017 from Delhi to Raipur. Perused the FIR and the statement of Pratik Bais, which would show that initially non return of Rs.82000/-was alleged by the complainant and the same was affirmed in the first statement recorded by Prateek Bais on 17.10.2016. Subsequently, the statement would show that certain internal transaction has been stated and it is stated that an amount of Rs.19 Lakhs has been deposited by the complainant and fraud has been committed. Therefore, on subsequent statement amount of

deposit was inflated other than earlier statement of F.I.R. Taking into the totality of the FIR that initially amount of Rs.82000/- has been stated, nature of allegations and the applicant also appears to have presented himself before the Sessions Court on 07.06.2017 and taking into nature of transactions, I am inclined to allow this bail application.

6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant, he shall be released on anticipatory bail on his executing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the arresting officer with the following conditions:-

- (i) that the applicant shall make himself available for interrogation before the investigation 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/-

Goutam Bhaduri  
Judge