

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1161 of 2016

- Arvind Kumar Sinha S/o Late M. P. Sinha Aged About 52 Years
R/o House No. 207/2017, Ashish Nagar Risali, tahsil & District
Durg Chhattisgarh --- **Applicant**

Versus

1. Tapan Kumar Sharma S/o L. L. Sharma Aged About 50 Years
R/o Kanchanpuram Apartment, Antim Mala Phase -2 Ashish
Nagar, Risali, Bhilai Nagar, Tahsil & District Durg Chhattisgarh
2. State Of Chhattisgarh Through District Magistrate Durg, District
Durg Chhattisgarh --- **Respondents**

For the applicant : Mr. Awadh Tripathi, Advocate.
For the State : Mr. Anupam Dubey, Dy.Govt. Adv.
For the Objector : Mr. Shrawan Agrawal

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

17.01.2017

1. Apprehending arrest in connection with Criminal Complaint Case No. 6676 of 2016 pending before the JMFC, Durg for the offences punishable u/s 420 IPC, the applicant has filed this application u/s 438 of the Code of Criminal Procedure.
2. As per the prosecution case, on the basis of complaint filed by non-applicant No.1 Tapan Kumar Sharma, notices were issued to the present applicant for appearance wherein the offence u/s 420 IPC has been registered.
3. Learned counsel for the applicant would submit that the transaction between the parties is with respect to purchase of Flat and initially a sale deed was made by the applicant in the year 2013. Subsequently some

dispute took place and periodical payments were made and one Cheque of Rs.4 lakhs which was given by the complainant to the applicant was dishonoured and it is alleged that the applicant tried to take away the amount and on that basis the complaint was filed. It is further submitted that the case was also filed before the Consumer Forum and the consumer forum/appellate Court after remand has also directed to pay Rs.7 lakhs to the applicant which is also sub-judice to the appellate forum and according to the complainant, the applicant himself has agreed that the cost of flat was Rs.30 lakhs in all respects, therefore, the transaction being monetary is completely civil nature and no custodial interrogation would be required.

4. Per contra, learned State Counsel as also learned counsel for the objector oppose the prayer. It is submitted by counsel for the objector that by forged document, the cost of flat was inflated to Rs.30 lakhs whereas in the sale deed it was Rs.22 lakhs and the payment voucher would show that the applicant himself has received an amount of Rs.26.90 lakhs and on the basis of forged cheque, the recovery proceedings are drawn which is also subjudice. It is further submitted that in the facts and circumstances of the case the applicant is not entitled for anticipatory bail.
5. Perused the complaint wherein at Para 3 it is stated by the complainant that the cost of flat is Rs.30 Lakhs. The order of the consumer forum is placed on record which shows that an interse dispute arose between the parties and also the proceedings u/s 138 of the Negotiable

Instrument Act are pending about consideration. Taking into totality of the facts situation of the case, the dispute appears to be civil nature. Therefore, considering various transactions and the nature of dispute, I am of the view that it is a case where no custodial interrogation would be required and the anticipatory bail can be extended to the applicant.

6. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court for his appearance. The applicant shall also abide by the following conditions :-

- (i) that he 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 any police officer;
- (ii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iii) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE