

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 86 of 2017

Harisharan Dwiwedi, S/o. Jankiprasad Dwiwedi, Aged About 58 Years,
R/o. Village- Sivni, Police Station- Marvahi, District- Bilaspur, Chhattisgarh

----Applicant

Versus

State Of Chhattisgarh, Through: S.H.O. Police Station- Pendra, District-
Bilaspur, Chhattisgarh

---- Respondent

For Applicant	: Mr. V.C. Ottalwar, Advocate
For Respondent/State	: Ms. M. Asha, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

26/04/2017

1. Apprehending arrest in connection with Crime No.58/2016 registered at Police Station- Pendra, District – Bilaspur (C.G.), for offence punishable under Section 420, 467, 468, 471, 170, 34 of Indian Penal Code, the applicant has preferred this second bail application U/s. 438 of Cr.P.C. for grant of anticipatory bail. The first bail application was dismissed on 01.04.2016 in M.Cr.C.(A) No.300/2016.
2. Case of the prosecution in brief is that, in the year 2009 the applicant along-with other co-accused came to the complainant personifying themselves as employees of BSNL and offered him that in case he allows a tower to be installed in his land, an amount of Rs.1,50,000/- would be paid and further rent of Rs.5000/- per month would also be paid. Subsequent to that, on one day, the

applicant came to the complainant and gave him two cheques of Rs.7000/- and Rs.5000/- and after gaining the confidence, it was stated that in order to install the tower asked the complainant to pay Rs.75,000/- and on such assurance Rs.75,000/- was paid to Madhukar Dwivedi, the other accused. Subsequently when the tower was not installed the complainant inquired and went to the house of Madhukar Dwivedi where this applicant who was stated to be the SDO Telephones was also present and ultimately the amount was not returned. When the enquiry was made at BSNL Office, Bilaspur, the personification of the applicant was found to be forged.

3. Learned counsel for the applicant would submit that bail of another accused namely Madhukar Dwivedi, son of the present applicant was considered in M.Cr.C. No.7294/2016 on 13.12.2016 and the bail was granted to Madhukar Dwivedi on the ground that entire amount has been paid back and there has been some monetary transaction existing between the parties. Therefore, the counsel prays that the applicant may be extended the benefit of anticipatory bail.
4. Per contra, learned counsel for the State opposes the bail application, however, he do not dispute the fact that amount alleged has already been returned.
5. I have heard the learned counsel for the parties.
6. Perused the earlier order dated 13.12.2016 in M.Cr.C. No.7294/2016, wherein Madhukar Dwivedi has been enlarged on bail specially taking into the fact that entire amount has been returned. In view of this, the amount appears to have been

returned. Considering the same and the facts and circumstances of the case, this Court is inclined to extend the benefit of anticipatory bail to the applicant as the custodial interrogation of the applicant may not be required in this case.

7. Accordingly, the anticipatory bail 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 by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

(i) that the applicant shall make himself available for interrogation before the investigating 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.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

