

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3502 of 2017

Aditya Pandit, S/o. Shri S.K. Pandit, Aged About 28 Years, R/o. Sector-2A, House No.- 228, Saket Nagar, Police Station- Bagh Shivnia, Bhopal, District (Revenue & Civil)- Bhopal, Madhya Pradesh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station- Civil Lines, District Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Pramod Kumar Verma, Senior Advocate
with Mr. Sumit Verma, Advocate

For Respondent : Mr. Suryakant Mishra, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

21.06.2017

1. This is the second bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.323/2016 registered at Police Station- Civil Line, District Raipur (C.G.) for the offence punishable under Section 420, 120B of Indian Penal Code. The first bail application was dismissed as withdrawn on 06.03.2017 with liberty to file afresh after filing of the charge sheet.
2. As per the prosecution case, a report was lodged by one Rahul Agrawal on behalf of M/s. Heera Power & Steels Limited that the present applicant in the year 2012 entered into MOU with the Company so as to provide coal to them from Nagaland and in order to carry out such MOU, loan of Rs.1,35,00,000/- was given. Subsequently, the land for which the MOU was entered when was physically verified, some other lands were shown and thereby from the very inception fraud was committed and an amount of

Rs.1,35,00,000/- was usurped. Thereby, the offence has been committed.

3. Learned counsel for the applicant would submit that this is the second bail application, the first bail application was dismissed as withdrawn with liberty to repeat the same after filing of the charge sheet on 06.03.2017 in MCRC No.1173 of 2017 and now the charge sheet has been filed. It is submitted that admittedly the MOU was entered and six cheques were given. The cheques having become old as now code bar has come in the cheque, further six cheques were given which would show the intention of the applicant. It is further submitted that the MOU would reveal that at any point of time, the complainant could not withdraw himself from the MOU. It is further submitted that the MOU also contains the fact that the loan was advanced, therefore, if cheques have been bounced for which a separate proceeding under Section 138 of Negotiable Instrument Act can be carried out, it cannot be stated that fraud has been committed under Section 420 of I.P.C. It is stated under the circumstances that only the arm twisting method has been adopted for recovery of the amount, therefore, the applicant may be released on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail.
5. Perused the case diary, documents and also the statement of Rahul Agrawal. The case diary also contains the MOU. Reading of the MOU would show that in respect of supply of coal certain Agreement/ MOU was entered and the loan was also given to carry out the MOU and the loan appears to have been secured by post dated cheques. Taking into the statement of Rahul Agrawal and MOU and further considering the nature of evidence, which

appears to be documentary in nature, at this stage, I am inclined to release the applicant on bail.

6. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed.
7. It is directed that the applicant shall be released on bail on furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Goutam Bhaduri)
Judge