

# **HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 3579 of 2017**

- Nayan Dutta S/o Late Tara Dutta, Aged About 39 Years Caste Bangali, R/o Near Railway Station Manendragarh, Thana & Revenue District Korea, Chhattisgarh. **---Appellant**

**Versus**

- State of Chhattisgarh through Station House Officer, Police Station Civil Line, Bilaspur, District Bilaspur, Chhattisgarh. **--- Respondent**

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| For the applicant | : | Mr. Awadh Tripathi, Advocate |
| For the State     | : | Ms. M. Asha, Panel Lawyer    |
| For the objector  | : | Mr. C.D. Sharma, Advocate    |

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order on Board**

**21.06.2017**

1. This is second bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No.75/2016 registered at P.S. Civil Line, Bilaspur (C.G) for the offence punishable under Sections 420 of IPC.
2. The first bail application was dismissed on 02.01.2017 after hearing on merits.
3. As per the prosecution case, a report was made by one Dr. K.K. Agrawal that the present applicant who appears to be in close nexus with the political leaders assured his son to get admitted in M.D. through the Ministers quota and received an amount of Rs.56 lakhs, however, subsequently the promise was found to be completely false, thereby the offence has been committed.
4. Learned counsel for the applicant would submit that the complainant and his wife have been examined in this case and it will show that the amount of transaction to the extent

of Rs.15 lakhs was not for getting admission in M.D. course but it was given on loan for construction of the house of the applicant and there was an agreement. He further submits that out of the said amount of Rs.15 lakhs, more than Rs. 18 lakhs has been returned to the complainant and a separate suit has also been filed by the complainant for recovery of the amount, therefore, it would show that the nature of transaction is of civil nature. He further submits that the charge sheet has been filed and the applicant is in jail since 06.11.2016, therefore, he may be released on bail.

5. On the other hand, learned State Counsel as also counsel for the objector vehemently oppose the prayer and would submit that Rs.15 lakhs was obtained by the applicant to provide admission in M.D. Course to the son of complainant and the complainant and other witness have disowned the agreement in the cross examination.
6. Perused the documents. The entire evidence of complainant and his wife Sunanda Agrawal is placed on record. Considering the facts and circumstances of the case, at this stage, it would not be proper for this Court to evaluate the entire statements of witnesses in between the lines for deciding the bail application. It is for the trial Court to appreciate the statements of witnesses and adjudicate the fact that whether any agreement for taking loan exists or not as prima facie denial of agreement has been made. Taking into such facts situation of the case, I do not find any change of circumstances to grant bail to the applicant. Accordingly, this bail application is rejected.

**Sd/-**  
**GOUTAM BHADURI**  
**JUDGE**