

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 19 of 2018**

Shahil Ali Siddhiqi S/o Vajid Ali Siddhiqi Aged About 43 Years R/o 15 Block SECL Korba Tahsil And District Korba Chhattisgarh Present Address LIG 4/c Purana Housing Board Colony Kharmora, Thana Balco Tahsil And District Korba Chhattisgarh, Chhattisgarh.

---- Applicant**Versus**

1. Mo. Ikbali S/o Khalil Kureshi Aged About 37 Years R/o Chikan Center Korba Tahsil And District Korba Chhattisgarh, Chhattisgarh
2. State Of Chhattisgarh Through District Magistrate, District Korba Chhattisgarh, District : Korba, Chhattisgarh

---- Respondent

For the Applicant : Shri Vikash Pandey, Advocate.
For the Respondent/ State : Shri Aditya Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****03.05.2018**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.
2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest, as the process has been issued against him in Complaint Case No. 317 of 2017, in which cognizance has been taken against the applicant for the offences punishable under Sections 380, 420, 456, 466, 468 and 471(A) of the Indian Penal Code and Sections 3 and 4 of the Chhattisgarh Samaj Ke Kamjor Vargon Ke Krishi Bhumi-Dharakon Ka Udhari Dene Walon Ke Bhumi Hadapan Sambandhi Kuchakron Se Paritran Tatha Mukti Adhiniyam, 1976.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The complainant had earlier borrowed some amount from this applicant and for repayment of the same he had issued a cheque No. 275750 for Rs.2,00,000/- on 30.6.2016. As the cheque was dishonoured by the bank and the loss was not made good after legal notice, a complaint under Section 138 of the Cr.P.C. has been filed by the applicant against the complainant on 3.9.2016, in which the cognizance was taken against the complainant on 26.9.2016. It was subsequent to that, the complainant has brought a false complaint making allegation that this applicant has stolen the cheque from the premises of the complainant and made use of the same. No case is made out against the applicant as the complaint filed by the complainant is after thought. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel has formally objected to the application filed by the applicant.

5. No one appears on behalf of respondent No.1 – Mo. Ikbaal. The complainant in this case has filed a complaint against the applicant. After service of notice, written objection has been filed by respondent No.1 in which he has stated that respondent No.1 and the applicant had cordial relations between them because of which, the applicant used to visit his place of business frequently and on finding one opportunity he has stolen the said cheque which was used by him for withdrawing money from the bank account of the complainant in a fraudulent manner. Hence, it is prayed that his application be rejected.

6. Heard counsel for both the parties and perused the case diary.
7. Complaint case has been filed by the complainant on 26.11.2016 against the applicant making allegation as mentioned herein above in the submissions made by respondent No.1.
8. Considered the submissions and the documents present in this case. The dates have relevance in this case as the complaint under Section 138 of the Cr.P.C. was filed by this complainant on 3.9.2016. Subsequent to order taking cognizance dated 26.9.2016, a notice was issued to the complainant/ respondent No.1 whereas the cheque presented by the applicant was dishonoured on 4.8.2016 and the legal notice was served upon the complainant on 13.8.2016 to which respondent No.1 also made a reply on 19.8.2016, but he has waited till the issuance of notice against him in the complainant case filed by this applicant for bringing the instant complaint against him. Hence, looking to the circumstances that have come up and the complaint that has been filed against this applicant belatedly by the complainant/ respondent No.1, I am of the considered view that the applicant deserves to be released on anticipatory bail.
9. 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 them 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/-

(Rajendra Chandra Singh Samant)
Judge