

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****Misc. Criminal Case No. 641 of 2018**

Laxminarayan Dansena S/o Shri Ravilal Dansena, aged about 28 years,
Occupation – Service, R/o village Sukhapali, Police Station Saria,
District Raigarh (CG)

---- Applicant**Versus**

State of Chhattisgarh through S.H.O. of the Police Station Kotwali,
District Raigarh (CG)

---- Respondent

For Applicant	:	Shri Abhishek Saraf, Advocate
For Respondent/State	:	Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice P. Sam Koshy**Order On Board****19/03/2018**

This is the first bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who is in jail since 07.11.2017 in connection with Crime No. 773/2017 registered at Police Station Kotwali, District Raigarh (CG) for the offence punishable under Sections 406/34 of IPC.

2. The case against the present applicant as per the prosecution is that the applicant was found in possession of an amount of Rs.7,59,600/- which is allegedly given to him by one Manoj Kumar Bhoi, an employee of Cash Management Service who was entrusted to collect Rs.21,82,761/- from Indusind Bank, Raipur and deposit the same at State Bank of India, main branch, Raigarh. But Manoj Bhoi did not deposit the same and gave an amount of Rs.7,59,600/- to the present applicant and later on, Manoj Bhoi is said to have committed suicide on 07.11.2017.

3. Counsel for the applicant submits that if the entire allegation as per the charge sheet is accepted, the offence under Section 406 of IPC is not made out against the applicant since the ingredients required for establishing criminal

breach of trust are not available in the case diary. Thus, prayed for the applicant to be released on bail.

4. State counsel, however, opposing the bail application submits that it is a case where cash of Rs.7,59,600/- was recovered from the possession of the applicant itself prima facie establishes the applicant's involvement in commission of the offence. Thus, prayed for rejection of the bail application.

5. Having heard the contentions put forth on either side and on perusal of the record what clearly reflects is that the applicant was not an employee of Cash Management Service. There was no contract or agreement between the applicant and the Bank. That the contract, if any, was between Manoj Bhoi and the concerned Bank and not the present applicant. It further reveals that except for the memorandum statement and the amount of Rs.7,59,600/- recovered from the possession of the applicant, there does not appear to be any evidence to show that the present applicant was in any way aware of the offence to have been committed by Manoj Bhoi. It also reveals that the cash was recovered from different locations as per the instruction of the applicant. Given the entire facts and circumstances of the case, prima facie, this Court is of the opinion that an offence under Section 406 IPC does not appear to have been established by the prosecution against the applicant and as such the applicant deserves to be released on bail.

6. Accordingly, the application for grant of bail is allowed. It is directed that the present Applicant will be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance before the said Court as and when directed.

**Sd/-
(P. Sam Koshy)
JUDGE**