

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 190 of 2018**

Pankaj Singh Bhuwal S/o Shri Sharad Kumar Bhuwal Aged About 32 Years
R/o.- At Present- Nawagarh, Main Road, Shankar Nagar, District- Bemetara,
Chhattisgarh, District : Bemetara, Chhattisgarh.

---- Applicant**Versus**

The State Of Chhattisgarh Through- The Police Station Takhatpur, District-
Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Himanshu Kumar Sharma, Advocate on behalf of Shri Malay Kumar Bhaduri, Advocate.
For the Respondent/ State :		Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****26.04.2018**

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 in connection with Crime No. 35 of 2018, registered at Police Station – Takhatpur, District – Bilaspur, Chhattisgarh for the offence punishable under Section 420 of the Indian Penal Code.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. This applicant had an agency styled as Mayank Services at Takhatpur in the year 2010 dealing in sale of

motorcycles. The scheme that was floated by him was with intention to promote the sale of the motorcycles to the local persons in which the complainant also participated and made some deposits. The applicant is ready to repay the amount deposited by the complainant. As the business of this applicant failed, he could not meet with the commitment made with various depositors. This is a case of civil nature and no case is made out of fraud or cheating, hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the applicant had floated a fraudulent scheme of a lucky draw to be drawn every month. According to which, the winner was to get one motorcycle from his shop. Number of persons were induced and they had made deposits of monthly installments of Rs.1,050/- and subsequently, the shop of this applicant was closed because of which, number of depositors lost their deposits. Hence, for these reasons, he is not entitled for grant of anticipatory bail.

5. Heard counsel for both the parties and perused the case diary.

6. Complainant – Terasram Jaiswal has filed a written complaint and on that basis, FIR was lodged in which it is alleged that the complainant made deposits for the lucky draw scheme and he has deposited Rs.15,750/- but later on, the shop of the applicant was closed and till date no refund has been made to the complainant.

7. Considering the entire material present in the case-diary and the dispute in this case is of civil nature and looking to the nature of evidence that is present against the applicant at this stage, as also the fact that the credibility of the witnesses is to be determined by the trial Court, I am of the considered view that the applicant deserves to be released on anticipatory bail.

8. 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