

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 567 of 2018**

Anil Kumar Vishwakarma S/o M. P. Vishwakarma Aged About 61 Years R/o Sadak, S.P.A. House No. 23A, Sector-5, Bhilai, District Durg, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through Police Incharge Anjora, Police Station Pulgaon, District Durg Chhattisgarh.

---- Respondent

For Applicant	:	Mr. T.K. Jha, Advocate
For State	:	Mr. Sanjeev Pandey, G.A.

Hon'ble Shri Justice Ram Prasanna Sharma**Order On Board**

20/07/2018

1. This is anticipatory bail application filed under Section 438 of the Cr.P.C. for releasing the applicant in the event of arrest in connection with Crime No. 127/2018 registered at Police Chowki-Anjora, Police Station- Pulgaon, District- Durg (C.G.), for commission of offence punishable under Sections 406 read with Section 34 of I.P.C.
2. Learned counsel for the applicant submits that it is a matter of unregistered partnership in which three persons namely Sangeeta James, Sunita Vishwakarma & Sandhya Sancheti were partners and the partnership is terminated later on.
3. He further submits that a case under Section 406 of IPC is registered for breach of trust but, there is no prima facie case as to who trusted the money in favour of the applicant and no record is found to establish that the applicant was handed over with money which has been misappropriated by the present applicant. He further submits that there is arbitration clause of dispute between

the partners and therefore, the matter pertains to civil liability and therefore, anticipatory bail may be granted to the applicant.

4. On the other hand, learned State counsel opposes the anticipatory bail application and submits that as per balance-sheet and statement recorded under Section 161 of Cr.P.C. prima facie offence under Section 406 is made out.
5. I have heard learned counsel for the parties and perused the case diary with utmost circumspection.
6. Looking to the fact that no bank account was operated by the present applicant and no amount was withdrawn by the applicant from account of the said partnership firm. Without further commenting on the merit of the case, I am inclined to grant anticipatory bail to the applicant.
7. 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 officer arresting him or the concerned Investigating Officer. The applicant shall also abide by the following conditions :-
 - (i) that he shall make himself available for interrogation before the investigating officer as and when required;
 - (ii) that he 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 him/her from disclosing such facts to the Court or any police officer;
 - (iii) that he shall not leave India without the previous permission of the Court.

- (iv) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that in case of change of address he will inform new address to investigating agency.

Sd/-
(Ram Prasanna Sharma)
Judge

Arun