

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.6502 of 2018**

Sudeep Wadodkar (wrongly mentioned as 'Barodkar' in rejection order), son of Shri Dilip Wadodkar (wrongly mentioned as 'Sudeep Barodkar'), resident of House No.B-9, Geetanjali City, PS Sarkanda, Bilaspur, District Bilaspur (CG) Mobile 7222935603

---Applicant**Versus**

State of Chhattisgarh, through the Station House Officer Police Station New Rajendra Nagar, Raipur

---Non-Applicant

For Applicant	:	Mr.B.P.Sharma, Advocate
For Non-Applicant	:	Mr.Adi Raj Surana, Dy.G.A.

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****31/10/2018**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.26/2018, registered at Police Station-New Rajendra Nagar, Raipur, District-Raipur (CG), for the offence punishable under Sections 420 & 120B/34 of the IPC and Section 138 of the Negotiable Instruments Act, 1881 (hereinafter called as "the Act of 1881").

2. Case of the prosecution, in brief, is that the applicant being Director of Adhiraj Developers obtained a sum of ₹ 9,16,000/- from complainant-Ashok Kaushal from 9.2.2014 to 24.2.2014 to sell a plot in his name in Gulshan Vatika situated at Sejbahar, Raipur, but did not execute the sale deed in favour of the complainant as assured and ultimately, when the complainant demanded his amount deposited, issued post dated cheque of ₹ 9,16,000/- towards the said amount, which has been dishonoured on being presented before the Bank and thereby committed

the offence under Section 420 and 120B of the IPC and Section 138 of the Act of 1881.

3. Learned counsel for the applicant would submit that the applicant has not committed any offence and he has falsely been implicated in crime in question. He would further submit that the applicant is one of the Directors of Adhiraj Developers. It is the case of dishonour of cheque, for which remedy is available to the complainant to file criminal complaint under Section 138 of the Act of 1881 and there is no criminality for offence under Section 420 of the IPC. It is not the case of the prosecution that plots are not available to the applicant Company for allotting and executing sale deed in favour of the complainant, it is only because of non-development of area in question due to unavoidable reasons, plot could not be registered in favour of the complainant. The applicant is in jail since 4.2.2018, charge-sheet has already been filed and no useful purpose will be served by detaining him in jail, as such, he be released on bail on appropriate terms.

4. On the other hand, learned Deputy Government Advocate for the State would oppose the bail application and submit that the applicant's company did not allot the plot to the complainant at all and when he demanded refund of money deposited by him, cheque has been issued in his favour, which has become dishonour, which shows the dishonest intention on the part of the applicant and there are more than 100 investors to whom the applicant being a Director of the Company has cheated, as such, he is not entitled for regular bail.

5. I have heard learned counsel for the parties and perused the case diary.

6. Taking into consideration the facts & circumstances of the case, nature & gravity of the offence, particularly considering that cheque issued

to the complainant has become dishonour, which is punishable under Section 138 of the Act of 1881 on complaint to be filed at the instance of the complainant and particularly taking into nature of dispute between the parties and F.I.R. lodged only after dishonour of cheque issued to the complainant and the fact that the applicant is in jail since 4.2.2018 i.e. more than 9 months, charge-sheet has already been filed and trial is likely to take time, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed on behalf of the applicant under Section 439 of the Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of **₹ 1,00,000/-** with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy urgently as per rules.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-