

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 459 of 2017**

Manishankar Pandey S/o Late Shri Ramkhilavan Pandey, Aged About 48 Years R/o Maharana Pratap Nagar, Tifra, Police Station Sirgitti, Tahsil And District Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Sarkanda, District Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Manoj Paranjpe, Advocate.
For the Respondent/State	:	Shri Anil S. Pandey, G.A.
For the Objector/ Complainant :		Shri Devershi Thakur, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****19.01.2018**

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. 373 of 2017, registered at Police Station – Sarkanda, District – Bilaspur, Chhattisgarh for the offences punishable under Sections 420, 468, 471 and 193 of the Indian Penal Code.
3. It is submitted by counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. The case registered against the applicant is clearly a case of double jeopardy. On the basis of the complaint filed by complainant – Basant Sharma dated 31.8.2016, FIR

was registered on 23.3.2017 as Crime No. 207 of 2017 for the offences under Sections 384 and 420 of the IPC. In that case, the anticipatory bail has been granted by the Co-ordinate Bench of this Court in M.Cr.C.(A) No.315 of 2017 dated 17.5.2017. In that order, the Co-ordinate Bench has specifically referred that in a written complaint said to have been filed by this applicant the date of actual filing had been 21.3.2017 which is alleged to have been manipulated as 20.1.2017. In the case concerned, in the application under Section 156(3) of the Cr.P.C. filed by the complainant before the concerned Court the same fact has been raised, again submitting, that by manipulation of the dates in the said application to the SHO, Sarkanda, the applicant has committed offence of cheating and forgery etc. It is submitted that it was after the grant of anticipatory bail to the applicant on 17.5.2017 deliberately the complainant has submitted the arguments before the Court for registration of the complaint, on the basis of which, on 22.5.2017, police station Sarkanda was ordered to register the offence in the said complaint and on that basis this complaint has been registered against the applicant. It is further submitted that a petition under Section 482 of the Cr.P.C. has been preferred in Cr.M.P. No. 974 of 2017 on 3.8.2017, in which this Court has been pleased to pass an order of interim relief to the applicant. It is also submitted that the anticipatory bail granted to the applicant was challenged under Section 439(2) of the Cr.P.C. in Cr.M.P. No.961 of 2017 by complainant – Basant Sharma, which has been dismissed vide order dated 24.8.2017 by the Co-ordinate Bench of this Court, in which it is clearly held that it is a case of double jeopardy. 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 according to the material in the case-diary there are clear allegations against the applicant about committing offence of forgery and cheating. On the basis of the statements given and on the basis of the enquiry report submitted by police station Sarkanda that he has manipulated the date in the complaint made in police station Sirgitti for the purpose of taking advantage of the earlier application for anticipatory bail and as such, a clear case is made out against him. Hence, the applicant is not entitled for grant of anticipatory bail.

5. Learned counsel for the Objector/ complainant adopts the arguments submitted by the State counsel and submits that the application is no longer maintainable. A contempt petition has been filed by the applicant before this Court registered as Contempt Case (Civil) No. 704 of 2017, in which the notices have been received by the complainant. The contents of the contempt petition clearly mentions that the applicant has been arrested on 10.11.2017 and thereafter, he was released. Apart from that, his application also misled this Court in Cr.M.P. No. 974 of 2017 dated 3.8.2017 by suppressing this fact that this application for anticipatory bail was pending before this Court since 6.6.2017, because of which the Court is directed the applicant to move an application before the appropriate Court for anticipatory or regular bail by the counsel concerned. Looking to the conduct of the applicant, it is submitted that under the garb of RTI activist, the applicant also harassing the other persons as well. Hence, the applicant does not deserve to be benefited with grant of anticipatory bail.

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

7. The case against the applicant is that he has manipulated the date in the written complaint given in the police station Sirgitti as 20.1.2017 whereas the complaint was actually given on 21.3.2017. The said fact has been considered by the Co-ordinate Bench of this Court in M.Cr.C.(A) No. 315 of 2017 and the order was passed accordingly and then the anticipatory bail was granted to the applicant. It is also a fact that the application under Section 439(2) of Cr.P.C. brought by the complainant as Cr.M.P. No. 961 of 2017 has been considered by the Co-ordinate Bench of this Court vide order dated 24.8.2017.

8. Subsequent to these findings and considering all the allegations in the previous FIR against the applicant and the FIR lodged on the basis of the complaint, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of 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. He 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 him 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