

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**M.Cr.C.(A) No. 778 /2017**

1. Shankar Matani, S/o. Late Jaymit Matani, Aged About 52 Years.
2. Ashok Matani, S/o. Late Shri Jaymit Matani, Aged About 54 Years.

Both Proprietor- Vivek Trading Company, Niwadganj, District Jabalpur Madhya Pradesh, R/o. 1442/02, Saraswati Colony, Cherital, Police Station Kotwali, Jabalpur, District Jabalpur Madhya Pradesh.

**---- Applicants**

**Versus**

1. Monika Rice Mill, Proprietor- Ramgopal Agrawal, Address Tilda Nevra, District Raipur, Chhattisgarh.
2. State Of Chhattisgarh, Through the Collector & District Magistrate, Raipur, District Raipur, Chhattisgarh.

**---- Respondents**

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For Applicants : Mr. D.N.Prajapati, Advocate.

For Respondent No.1 : Mr. Vishnu Koshta with Mr. Shobhit Koshta,  
Advocates.

For Respondent No.2 : Mr. Adhiraj Surana, Dy. G.A.

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order On Board**

**09.02.2018**

1. Apprehending arrest in connection with Complaint Case No.444/2016 pending before the J.M.F.C. Tilda, District Raipur (C.G.), Police Station- Tilda, District Raipur (C.G.) for the offence punishable under Sections 420, 406 of Indian Penal Code, the applicants have preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, on a complaint filed by the respondent No.1 under Section 200 of I.P.C. the case has been registered under Section 420, 406 of I.P.C. wherein allegation has been made that in lieu of the payment made of Rs.3,50,000/-, a cheque which was issued in name of the seller Monika Rice Mill, the complainant herein, one Santosh Jain personified himself to be the bearer and encashed the amount from the Bank and thereafter again deposited

the same in the account of the applicants. Thereby, the offence has been committed.

3. Learned counsel for the applicants would submit that the applicants on their behalf have tendered the money to the broker namely Santosh Jain and if the money has been misappropriated, the applicant cannot be held liable and the nature of transaction is civil, therefore, the applicants may be enlarged on anticipatory bail.
4. Per contra, learned counsel for the respondent/complainant vehemently opposes the bail and submits that in earlier round of litigation, this Court has come to a finding that *prima facie* case is made out for cheating and 406 of I.P.C.
5. Perused the case diary and documents. Considering the facts, it appears that no custodial interrogation is required in this case and it also appears that out of a business transaction the incident happened and payment of amount made to the complainant. Considering the same, I find it to be a fit case where the benefit of Section 438 of Cr.P.C. can be extended to the applicants.
6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on furnishing a personal bond to a sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court. The applicants shall also abide by the following conditions :
  - (i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;
  - (ii) that the applicants 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 to any police officer;

- (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Ashok

Sd/-  
**(Goutam Bhaduri)**  
**Judge**