

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 34 of 2019**

1. Narendra Kumar Sahu S/o Sevaram Sahu Aged About 35 Years R/o Indira Nagar, Utai, Ward No. 01, P. S. Utai, Tehsil And District Durg Chhattisgarh, District : Durg, Chhattisgarh
2. Premin Sahu W/o Narendra Kumar Sahu Aged About 31 Years R/o Indira Nagar, Utai, Ward No. 01, P. S. Utai, Tehsil And District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through District Magistrate, Durg District Durg Chhattisgarh, District : Durg, Chhattisgarh.

---- Respondent

For the Applicants : Shri Jaydeep Singh Yadav, Advocate.
For the Respondent/State : Shri Arun Shukla, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****22.01.2019**

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 applicants who are apprehending arrest in connection with Crime No. 323 of 2018, registered at Police Station – Utai, District Durg, Chhattisgarh for the offence punishable under Sections 192, 193, 420, 467, 468 and 471/ 34 of the Indian Penal Code.
3. It is submitted by counsel for the applicants that they have been falsely implicated in this case. No case is made out against the applicants

on the basis of the material placed before the Court by the prosecution. The facts of the case are that complainant – Jamini Kumar Senapati had borrowed Rs.75,000/- from applicant No.1 – Narendra Kumar Sahu and in security he had given a cheque of Rs.90,000/-. When the complainant did not make any repayment, the applicants have presented the said cheque before the bank for encashment which has been dishonoured. On that basis, the applicant filed a complaint against the complainant under Section 138 of the Negotiable Instruments Act. Thereafter, the complainant filed a false complaint against the applicants to avoid his liabilities. Hence, it is prayed that the applicants 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 story of the prosecution is altogether different from what has submitted by counsel for the applicants. Hence, no case is made out for grant of anticipatory bail to the applicants.

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

6. FIR has been lodged by complainant – Jamini Kumar Senapati under Section 156(3) of the Cr.P.C. stating that he had borrowed Rs.75,000/- from applicant No.1 – Narendra Kumar Sahu for the purpose of his business and had given a cheque of Rs.90,000/- as security which was undated. It is alleged that the complainant has repaid all the amount borrowed even then, the cheque was not given back to him and instead of returning the said cheque to the complainant the applicants have presented the said cheque in the bank for encashment after adding name of applicant No.2 – Premin Sahu

in it, which was dishonoured by the bank and thereafter, the complaint has been made. Hence, making allegation of criminal intention of the applicants, application under Section 156(3) of the Cr.P.C. has been made and on that basis, the concerned Court has ordered for registration of FIR.

7. Considered the entire material present in the case-diary and also considered on the counter allegations made by the applicants with respect to non-payment of the borrowed amount. The complainant has not produced any receipts or acknowledgements of the amount repaid by him to the applicants. Hence, under these circumstances, I am of the considered view that the present is a fit case where the applicants should be benefited with grant of anticipatory bail.

8. 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 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. They 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 them 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.'

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nimmi