

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 231 of 2019

- Kishore Virani S/o Tahwardas Virani, Aged About 38 Years, R/o Raheja Residency, Avanti Vihar, Telibandha, Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Azad Chowk, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Manoj Paranjpe, Advocate.

For Non-applicant/State – Shri Adil Minhaj, Panel Lawyer.

Shri Ajit Singh, Advocate for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-03-2019

1. Apprehending arrest in connection with Crime No.283/2018, registered at Police Station – Azad Chowk, Raipur District Raipur, Chhattisgarh for offence punishable under Section 420 of the IPC, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The FIR in this case has been lodged by the complainant at the instance of Khushiram Kundnani. Earlier one FIR was lodged by Khushiram Kundnani against this applicant on 21-10-2018 which was registered as Crime No.272/18, in which the applicant was granted regular bail. The complainant in this case has lodged FIR on 28-10-2018. A request was made to the Court below to make formal arrest of the applicant who was in custody at that time, but the police authorities in the present case did not take any interest with a purpose, so that the applicant when gets relief in earlier case he will be arrested again, shows their ulterior motive. Earlier this applicant and Khushiram Kundnani both were in the business of real estate together and they had some dispute regarding money transactions between them. The

complainant has made a totally false allegation that he has made the investment Rs.38 lacs. Although cheques issued by this applicant have been dishonoured by the bank, but no complaint has been filed by the complainant under Section 138 of the Negotiable Instruments Act. The stand of the applicant is this, that because of the dispute, Khushiram Kundnani had forcefully kept in his possession 8 to 10 blank cheques signed by the applicant, which he has misused, regarding which the applicant had already given an application to the bank for instruction of stop payment. Therefore, it is prayed that this applicant may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that numerous cases have been registered against the applicant. It is submitted that although the applicant has interim order in Cr.M.P. filed by him before this Court, but that order has been obtained by making false statement and suppression of facts. However, he has interim relief in his favour, therefore, there is no apprehension of arrest. Hence, the application may be rejected.

4. Learned counsel for the objector adopts the argument advanced by the State counsel and submits similarly that because of interim protection in favour of the applicant, this application is not maintainable. It is also submitted that the applicant has cheated the complainant and misappropriated huge amount which will not be recovered if he is granted anticipatory bail. Therefore, it is prayed that the application may be rejected.

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

6. According to the FIR, this applicant gave inducement to complainant Sourabh Mishra to make investment against which he will give returns in double in short term. As alleged, the complainant made investment of Rs.38,00,000/-. The complainant found that after some months the applicant started to avoid and he was not receiving phone calls of the complainant. However, he made contact with the applicant and then the applicant gave him

a cheque for amount of Rs.47,00,000/- which was when presented for payment was dishonoured by the bank. Hence, this case.

7. Considered on the submissions made by both the parties and also on the entire material present in the case diary. There does not appear to be any written document of the transaction or agreement between the complainant and the applicant. The complainant had option to file complaint under Section 138 of the Negotiable Instruments Act, which he has not preferred. Hence, nature of the transaction between the applicant and the complainant is yet to be found out in the investigation. This also appears to a ground of consideration that when the applicant was in custody in another case his formal arrest was not made in this case which was already pending against him, although an application was moved before the Court concerned, but the same was not pursued, which raises question on the intention of the investigating authorities. Therefore, after due consideration, I feel inclined to allow this application.

8. Accordingly, the anticipatory bail application is allowed. 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. The applicant 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/her 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.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil