

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No. 512 of 2019**

- Hitesh Madhu, S/o Shri Natwarlal Madhu, Aged About 37 Years, Address M/s. Hinglaaj Enterprises, Shop No. 187, East Mangalwar Pet, Shraddha Vill, Mahadev Road, Solapur, Maharashtra.

**---- Applicant**

**Versus**

- State of Chhattisgarh Through The Station House Officer, Police Station Chhawani, District Durg Chhattisgarh.

**---- Respondent**

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**MCRCA No. 513 of 2019**

- Hitesh Madhu, S/o Shri Natwarlal Madhu, Aged About 37 Years, Address M/s. Hinglaaj Enterprises, Shop No. 187, East Mangalwar Pet, Shraddha Vill, Mahadev Road, Solapur Maharashtra.

**---- Applicant**

**Versus**

- State of Chhattisgarh Through The Magistrate, Durg District Durg Chhattisgarh.

**---- Respondent**

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| For Applicant        | : | Mr. Raghvendra Pradhan, Advocate. |
| For Respondent/State | : | Mr. I. Lakda, Dy. Govt. Advocate. |
| For Objector         | : | Mr. Amiyakant Tiwari, Advocate.   |

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

**Order On Board**

**06/05/2019**

1. As applicant in both the cases are same, hence, both these applications are being disposed of by this common order.

2. Applicant in both the cases has preferred these applications for grant of anticipatory bail as he apprehends his arrest in connection with Crime No.101/2019 in MCRCA No.512/2019 and Crime No.102/2019 in MCRCA No.513/2019 registered at Police Station-Chhawani, District – Durg(C.G.), for the offence punishable under Sections 406 & 420 of Indian Penal Code (for short 'IPC').
3. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in these cases. It is submitted that the applicant is a sugar broker and he runs his business in the name of Hinglaaj Enterprises. Complainant Koshorilal Kothari Proprietor of Kothari Brothers registered a complaint as FIR No.911/2018 and complainant Gouri Kothari is Proprietor of GK Sugars registered a complaint as FIR No.2/19, both had placed orders for purchase of sugar from the sugar mills through this applicant, regarding which the applicant had received the price amount which is not in dispute. The applicant had bonafidely passed on the amount to sugar mills Shambhu Mahadev Sugar & Allied Industries Ltd. As the Shambhu Mahadev Industries ran into losses, therefore, neither the sugar was supplied nor the price paid was refunded to the applicant or to the persons who have placed the orders. The applicant then preferred a petition before National Company Law Tribunal, Mumbai Bench. The MCLT passed orders that since the industries Shambhu Mahadev Sugar and Allied Industries Ltd. has applied for insolvency proceedings, therefore, the petition has become infructuous. It is prayed that it is a simple case of business transaction when the complainant in both the cases can get the refund from the liquidation process of the industry which has applied for insolvency, therefore, the applicant be granted anticipatory bail in both the cases.

4. Learned State counsel opposes the bail applications and the submissions made in this respect. It is submitted that the applicant has received huge amount in advance for supply of commodity sugar to both the complainants in both the cases, but he has failed to do so and he has at the same time made no refund of the amount received by him, therefore, it is a clear cut case of cheating, hence, applications be rejected.
5. Learned counsel for the objector after adopting the argument submitted by counsel for State opposes the bail application and submissions made in this respect. It is submitted that the applicant in both the cases is relying on documents which are forged and false submissions have been made on behalf of the applicant, therefore, the documents showing the passing of money to the said Sambhu Mahadev Industries are not believable. It is further submitted that in case the application is allowed then this Court may be pleased to impose a condition on the applicant to make repayment to the complainants.
6. Heard both the parties and perused the case diary.
7. In Crime No.911/2018, it is complained that the applicant received Rs.15 lakhs on 28.9.2016 and received another Rs.15 lakhs on 6.10.2016 from the complainant for supply of sugar. The sugar was not supplied to the complainant and no refund has been made by the applicant to the complainant on account of non-supply of the commodity.

In Crime No.2/2019 the complaint is same that the applicant received 15 lakhs on 7.10.2016 through RTGs. He received another 15 lakhs on the same date through NEFT from the complainant for supply

of sugar, but the sugar was not supplied to the complainants and nor the refund has been made. Hence, this case.

8. On perusal of the documents in both the cases, it appears that the applicant has transacted for supply of sugar with the Sambhu Mahadev Industries Private Ltd. The order of NCLT itself mentions in the petition filed by the applicant against Sambhu Mahadev Industries about the transactions made by the applicant, therefore, it appears that it is a case of simple business transaction which has failed on account of inability of sugar industry and there is glimpse of civil nature in the complaint made against the applicant in both the cases, therefore, after due consideration, I feel inclined to allow both the applications of this applicant.
9. Accordingly, the anticipatory bail applications of applicant is allowed and it is directed that in the event of his arrest in connection with the above crime numbers, he shall be released on bail by the officer arresting him on his executing a personal bond in the 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.

**Sd/-**

**(Rajendra Chandra Singh Samant)**  
Judge

**Nisha**