

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 948 of 2019

- Ashwan Nayak, S/o Gokul Nayak, Aged About 29 Years, Occupation Samiti Sevak, Co-Operative Bank Bonda, Tahsil Bodla, District-Kabirdham, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through The Station House Officer, Police Station-Taregaon Jangal ,District- Kabirdham, Chhattisgarh.

---- Respondent

For Applicant : Mr. Raghvendra Pradhan, Advocate.
For Respondent : Mr. Ghanshyam Patel, Govt. Advocate.
For Complainants : Mr. Sunil Sahu, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

25/07/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.14/2019 registered at Police Station - Taregaon Jangal, District-Kabirdham (C.G.), for the offence punishable under Section 420/34 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. The applicant has not committed any offence. He had retained some part of the amount, which was to be disbursed to the beneficiaries, to meet the expenses of processing. However, FIR has been lodged making false allegations against the applicant, hence, it is prayed that he may be enlarged on anticipatory bail.

3. Learned State counsel opposes bail application and submissions made in this respect. It is submitted that act attributed on the part of the applicant is covered under the definition of 'fraud' & 'cheating' and therefore, he is not entitled for grant of anticipatory bail.
4. Learned counsel appearing on behalf of three of the complainants submits that the complainants have no objection if anticipatory bail is granted to the applicant.
5. Heard both the parties and perused the case diary.
6. According to prosecution case, this applicant obtained signature of the beneficiaries/ complainants on withdrawal forms to make withdrawal from their respective bank accounts. It is alleged that after making withdrawal, he deducted Rs.41,500/- on the pretext that he has to make some payment to the officers of the bank. Hence, this case.
7. Documents have been filed along with the application to show that the compromise has been arrived at between the parties and the applicant has made refund of the amount to the beneficiaries which he had retained. After over all consideration, particularly the fact that the complainants have been reimbursed their loss, therefore, I feel inclined to allow the application of this applicant.
8. 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 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