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HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 1216 of 2019

Rahul Kumar, S/o. Shri Murari Mohan Sinha, Aged About 38 Years, Occupation -Bank Manager, Bank Of Baroda, Branch Akaltara, R/o. Gulab Nagar Mopka, Police Station - Sarkanda, Tahsil and District Bilaspur Chhattisgarh.

----Applicant

Versus

State Of Chhattisgarh, Through : Station House Officer, Police Station Sarkanda, Tahsil and District Bilaspur Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Ratnesh Kumar Agrawal, Advocate
For Respondent	:	Mr. Devendra Pratap Singh, Dy.A.G.
For Objector	:	Mr. Atanu Ghosh, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

05/09/2019

1. Apprehending arrest in connection with Crime No.567/2019, registered at Police Station – Sarkanda, District – Bilaspur (C.G.) for offence punishable under Section 420, 467, 468, 471, 120-B, 34 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant on the basis of the material present in the case diary. The applicant was working as Branch Manager, Bank of Baroda, Branch, Raj Kishore Nagar, Bilaspur at the time of incident. According to the documents presented for sanction of loan in favour of M/s. Aditya Aqua Culture, the property belonging to the complainant was verified by the counsel and search report was given to the Bank. The same property was also valued by A.M.

Consultants, thereafter all the documents have been signed by the complainant himself including the documents for mortgaging his property. It may be so that this applicant may have committed some lapses in sanction of said loan, but that does not amount to commission of offence of cheating or forgery. Therefore, it is prayed that the applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that the documents relied upon by the applicant side are not the part of case diary. There is clear allegation that this applicant in capacity of Branch Manager of Bank has without verifying the existence of M/s. Aditya Aqua Culture has sanctioned the loan whereas, it has been found in the investigation that the said concern is not in existence, therefore, it can be presumed that the applicant has taken benefit from the fraudulent bank transaction.

4. On behalf of the objector, it is submitted that the documents filed by the applicant have discrepancies because in some places, the complainant is shown as borrower, whereas, he has been shown in the loan documents as guarantor. Further the mention of the property is also discrepant as it is mentioned in some where as residential and some where it is mentioned as commercial. Apart from that it is clear allegation that the complainant himself had not been to the Bank and had not submitted any document and he never presented himself in Bank to sign any documents for loan. Therefore, it is clear case where the applicant collaborated with the main accused persons in fraudulent transaction of loan, therefore, it can not be ruled out that he has taken benefit from the other accused persons.

5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.

6. According to the prosecution case co-accused Vishwajit Bhaumik and Ruma Bhaumik had constituted firm styled a M/s. Aditya Aqua Culture, which is totally non-existent. The co-accused persons by inducing the complainant that they will provide him with bank loan obtained the property document and made use of the same in collaboration of this applicant for obtaining loan in the name of M/s. Aditya Aqua Culture of Rs.60.00 lakhs. The complainant came to know about the loan sanctioned, when he received notice for recovery and thereafter, the FIR has been lodged.

7. Considered the submissions made and the contents of the case diary. After considering on the entire material present in the case diary and on the basis of the documents that have been filed along with the application, it appears that there are signatures of the complainant present on the loan papers and further there is no direct evidence present that this applicant has taken benefit in the said loan transaction, hence for this reason, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.

8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.

9. 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram