

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 2238 of 2018

Nitesh Kumar Choubey @ Nilesch Kumar Choubey, S/o. Ramgopal Chaoubey, Aged About 32 Years, R/o. Q. No. 11/895, Bhartiya Nagar, Police Station -Civil Line, District Bilaspur, Chhattisgarh.

---- **Petitioner**

Versus

State Of Chhattisgarh, Through District Magistrate, Bilaspur, Chhattisgarh.

---- **Respondent**

For Petitioner : Smt. Smita Jha, Advocate

For Respondent : Shri R.K.Bhagat, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

09.01.2019

Heard

1. The present petition is for release of a Laptop which was seized and account which is maintained in the State Bank of India bearing No.35786636973. The order of rejecting such application is dated 01.08.2018.
2. Brief facts are that a complaint was filed by one Krishna Tiwari that the petitioner has obtained the franchise of one APS Company to convert the hard copy book to PDF file, which is a foreign based company. The complainant in lieu of that has given a contract to convert the soft copy of certain books and an amount of Rs.4,50,000/- was deposited with the APS Company, which was routed through the petitioner herein. Subsequently, it was found that the Company was closed, therefore, the complaint was made and during the investigation the Laptop and company account seized.
3. During the course of argument, learned counsel for the petitioner confined his claim to the account which is maintained in S.B.I.

Bilaspur. It is contended that no purpose would be served to continue in seizure of the account in Bank. If the investigation is complete, then the entries in the account book can be very well proved by producing certified copy of the entries of the account. Section 4 of the Bankers' Books of Evidence Act, 1891 reads as under :

"4. Mode of proof of entries in banker's books. - Subject to the provisions of this Act, a certified copy of any entry in a banker's books shall in all legal proceedings be received as prima facie evidence of the existence of such entry, and shall be admitted as evidence of the matters, transactions and accounts therein recorded in every case where, and to the same extent as, the original entry itself is now by law admissible, but not further or otherwise."

4. Perused the records.
5. In view of facts, the investigation having been completed, the account which is said to be maintained in the name of the petitioner may not be required to continue under seizure as the prosecution can very well prove the entries in the account by resorting Section 4 of the Bankers' Books Evidence Act, 1891 by producing certified copy of the same to prove the past transaction. In view of this, the seized Account No.35786636973 of S.B.I. Bilaspur shall be released on furnishing surety to the extent of Rs.4,50,000/-, the alleged amount of fraud.
6. In view of the above, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge