

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6859 of 2019**

- Sushilchand Pagariya S/o Shri Mangilal Pagariya Aged About 59 Years, R/o 5th Floor, Mahavir Plaza, Tagore Nagar, Raipur Tehsil And District Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh, Through : Police Station Civil Lines, District Raipur, Chhattisgarh.

---- Respondent

For Applicant	:	Dr. Menaka Guruswamy Senior Adv. With Mr. Prasoon Agrawal & Ms. Surabhi Dhar, Adv.
For Respondent/State	:	Mr. Akhtar Hussain, PL.
For Objector	:	Mr. Maneesh Sharma, Adv.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****02/12/2019**

1. The accused/applicant has moved this first bail application under Section 439 of Criminal Procedure Code for releasing him on regular bail during trial in connection with Crime No. 416/2019 registered at Police Station Civil Lines, Raipur District-Raipur (C.G.) for the offence punishable under Sections 420, 467 and 468 of the IPC.
2. The prosecution story, in brief is that a complaint has been lodged by complainant Gajraj Pagariya that in the year 2013 his wife, Smt. Durga Devi Pagariya and the applicant were Directors of C.G. Power Project Pvt. Ltd. Raipur. During that time the applicant by forging the signature of Durga Devi Pagariya submitted loan application form in the bank and secured a loan of about Rs. 1,50,00,000/-. The loan was secured, but was not utilized for the C.G. Power Project Pvt. Ltd. It was fraudulently withdrawn and

misappropriated for personal use by the applicant, regarding which the FIR has been lodged on 07.07.2019.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case. This dispute is a civil dispute which has been converted in criminal proceeding by the complaint of this case. The applicant and the complainant both are real brothers. They had some dispute earlier with respect to joint family property regarding which a civil suit was filed. But after some time both parties have compromised and the dispute has been resolved. The allegation that this applicant had secured loan from the Bank by forging signature of another director Smt. Durga Devi Pagariya and has misappropriated the same is totally false. As it was Durga Devi Pagariya herself who has signed the loan papers and the loan that was secured has been utilized for C.G. Power Project Pvt. Ltd. itself. Copy of balance-sheets are produced to demonstrate it is clear from the balance-sheets that the whole loan was paid in time. She further submits that applicant is a cancer patient and the applicant is in jail since 01.10.2019, charge-sheet has been filed and except loan papers and bank documents no incriminating evidence collected by prosecution and trial may take some time, reliance placed on Sanjay Chandra vs. CBI (2014) 1 SCC 40. The present applicant may be released on bail.
4. On the other hand, counsel for the State opposes the bail application.
5. Learned counsel for the objector submits that the applicant is a habitual offender and there are criminal antecedents registered against the applicant prior to the incident. The applicant himself challenged the compromise decree by filing a civil revision which is pending before this Court. The applicant obtained loan by forge signature of one director and then by misusing of his authority transfer the same into bank account of Mangilal and Sons, from where he had made withdrawal of the whole loan amount for his personal use which was never deposited back. As to save the reputation of the company objector has made repayment of the loan. Previously applicant was suffering from cancer, but now he is

cured after successful operation and treatment. Application for Anticipatory bail filed by the applicant was rejected by this Court on 01.10.2019.

6. I have heard learned counsel for the parties and perused the case diary.
7. Taking into consideration the nature and gravity of the offence, facts and circumstances of the case, detention period of applicant and further considering the facts that the offence is triable by Judicial Magistrate First Class. The present applicant is in jail since 01.10.2019 charge-sheet has been filed and looking to the witness list the trial is likely to take some time for its final disposal, this Court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.
8. Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs. 5,00,000/- with one local surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court.

**Sd/-
(Rajani Dubey)
Judge**