

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC(A) No. 1643 of 2018**

Kanhaiya Lal Sahu S/o Shri Ram Sahu Aged About 49 Years R/o
 Village Tundri, Tahsil And Police Station Dabhara Civil &
 Revenue District Janjgir -Champa Chhattisgarh --- **Applicant**

Versus

State of Chhattisgarh through the Station House Officer police
 Station Kharasiya, Civil & Revenue District Raigarh Chhattisgarh.
 ---- **Respondent**

For the applicant : Mr. Paras Mani Shriwas, Advocate.
 For the State : Mr. Chandresh Shrivastava, P.L.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****03.01.2019**

1. Apprehending arrest in connection with Crime No. 618/2017 registered at Police Station Kharsiya, Distt. Raigarh (C.G) for the offences punishable under section 420/34 of IPC, the applicants have filed this application u/s 438 of the Code of Criminal Procedure.
2. This is second bail application. The earlier one was dismissed for want of prosecution on 03.08.2018.
3. As per the prosecution case, a report was made by Kanhaiya Ram Rathiya that he received compensation of Rs.44,22,275/- in lieu of acquisition of land which was deposited in the District Cooperative Bank, Dabra on 06.01.2012 and having coming to know this fact, the present applicants along-with other accused in order to deceive the complainant allured him that the amount so received by him would earn more interest in other Banks

and as such got withdrawn the amounts from the Cooperative Bank by taking his thumb impressions on withdrawal forms. It is alleged that on 06.01.2012, Rs.21 lakhs was withdrawn. Again on 07.01.2012 Rs.15,22,000/- was withdrawn and on 13.01.2012, Rs.8 lakhs was withdrawn and the present applicants in connivance with other accused and deceived complainant Kanhai Ram Rathiya and took away the amounts, thereby, the offence has been committed.

4. Learned counsel for the applicant would submit that the bald allegations have been made against the applicant and the money which is alleged to have been got withdrawn was actually withdrawn by the complainant himself and the incident is of the year 2012. They further submit that earlier two investigations were carried out, one by SDO Khasia wherein no offence was found to have been committed and the second was conducted by the T.I., Dabra wherein also no offence was found to have been committed and the 3rd investigation is pending before the Chandrapur Police, however, again the complaint has been made on which the present FIR is registered. He further submits that though the amounts are alleged to have been withdrawn but there is no allegation that the applicant has received the amounts.
5. Learned counsel for the applicant further submits that similarly placed accused Nand Kumar Patel, Rupram Rathiya and Bhupendra Patel have been granted anticipatory bail by this Court on 08.05.2018 in

M.Cr.C(A).Nos. 138, 210 and 413 of 2018 and the case of the present applicant is also on similar footing, therefore, the present applicant may also be admitted to anticipatory bail.

6. Per contra, learned State Counsel opposes the prayer. However, he do not dispute the fact that similarly placed accused have been granted anticipatory bail by this Court.
7. Perused the case diary and the documents filed along-with the petition. The incident appears to have taken place in the year 2012 and the report was lodged much after time i.e., in the month of March, 2014. Initially the S.D.O (Police) has conducted the investigation in the year 2015 wherein it was found that no offence was made out. Subsequently again the report was made.
8. Considering the fact that the incident is of the year 2012 and the report was made in the year 2014 as also the fact that the similarly placed accused have been granted bail by this Court, I am inclined to allow this bail application.
9. Accordingly, the 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 executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the officer arresting him or the concerned Investigating Officer. The applicant shall also abide by the following conditions:-
 - (i) that he shall make himself available for interrogation before the investigating officer as and

when required;

(ii) that he 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 any police officer;

(iii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and

(iv) that he shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**