

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1731 of 2018**

Indra Kumar Bhagat, S/o. Shri Vasudev Bhagat, Aged About 35 Years,
R/o. Plot No. 126, Shilpa Society Manish Nagar, Somalvada, Vivekanand
Nagar, District Nagpur (Maharashtra).

----Applicant

Versus

State Of Chhattisgarh, Through : Incharge Station Officer, Police Station,
Telibandha, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Ms. Deepali Pandey, Advocate
For Respondent/State	: Mr. Arun Shukla, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****18/01/2019**

1. Apprehending arrest in connection with Crime No.209/2018, registered at Police Station – Telibandha, District – Raipur (C.G.) for offence punishable under Section 420, 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 is not one of the directors of the company Phoenix Infra State International Ltd.. He was simply a marketing agent and had authorization from the company directors to sign agreement. The applicant had not received any amount from any of

the complainant and thus he had not been a beneficiary of the fraud committed, if any. 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 according to the investigation, this applicant is also one of the directors of the company and thus he is also the recipient of the amount obtained through deceit, therefore, the applicant may not be released on anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. Complaint was filed by the complainant K.P. Pradeep alleging that the directors of the company Phoenix Infra State International Ltd gave inducement that their company was making sale of plots and flats in their project regarding which complainant and others entered into an agreement for said purchase and advance amount was received from them. The complainant paid advance amount through cheque to the company.
6. Counsel for the applicant has filed additional documents, which is memorandum of article of association of Phoenix Infra State International Ltd., which does not show that this applicant is one of the director of the company and further for the reason that this applicant had no position in the company, therefore, it can not be said that he was the recipient or beneficiary of the payment made through cheque to the company. Hence, after due consideration this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.

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