

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 69 of 2020**

- Arun Kumar S/o Kehar Singh Aged About 36 Years Caste Sansi Thakur, R/o Galira Road, Uttarakhand Colony, Saharanpur, Uttar Pradesh

----Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station, Kotwali, Surajpur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Keshav Prasad Gupta, Advocate
For State	:	Shri Alok Bakshi, Addl. A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****04/08/2020**

The applicant is apprehending his arrest in connection with Crime No.197/2019 registered at Police Station – Kotwali, Surajpur (CG) for alleged commission of offences under Section 420 IPC.

2. Prosecution allegation is that the applicant and co-accused, playing fraud, accessed ATM card details of the complainant - Omprakash and thereafter, they fraudulently withdrew an amount of Rs.3,08,000/- from his account. When the complainant went for withdrawal of the amount from his account through ATM, he came to know about the fraudulent act and the matter was reported. The police had earlier arrested co-accused – Vikas Kashyap in connection with similar fraudulent act and a crime in Crime No.128/2019 was registered in the same police station. In that case, the co-accused Vikas, in his memorandum, disclosed how he and the co-accused were involved in fraudulent transaction of withdrawal of money from the account of different persons including complainant in the present case namely Omprakash.

3. Learned counsel for the applicant would argue that as far as involvement of the present applicant is concerned, it is mainly based on memorandum of co-accused – Vikas recorded in other crime no.128/2019. He would submit that in the other case, a settlement arrived at between the complainant and Vikas and the entire amount was returned by Vikas to the complainant and he was granted regular bail. In that case, the applicant had applied for grant of anticipatory bail before this Court and he was granted anticipatory bail vide order dated 08/06/2020 passed in MCrC(A) No.33/2020. It is submitted that the nature of involvement of the present applicant in present case is no different and in the present case also, a settlement has taken place and the entire amount of Rs.3,08,000/- has been returned to the complainant – Omprakash. Therefore, it is prayed, the applicant may also be granted anticipatory bail on parity. It is further submitted that the applicant has been protected by an *ad interim* order against his arrest.

4. On the other hand, learned State counsel would submit that the present applicant and co-accused – Vikas are involved in fraudulent withdrawal of money from the accounts of more than one person by accessing to the ATM card details. When co-accused was arrested in another case, it came to light that the co-accused and the present applicant both are involved in fraudulent activities and merely because money has been returned, looking to the nature of fraudulent transaction, more than one in nature, the application may be rejected.

5. Having heard learned counsel for the parties and considering the material disclosed to this Court during the course of hearing and what has been obtained from the case diary, further taking into consideration that the nature of allegations in the present case and in MCrC (A) No.33/2020 wherein co-accused has been protected by anticipatory bail mainly on consideration that settlement has taken place and money fraudulently withdrawn has been returned and taking into consideration that in the present case, it is reflected that Vikas has returned Rs.3,08,000/- to the complainant-Omprakash and he has also been granted regular bail in the other case, in my opinion,

in order to maintain parity, the applicant in the present case is also entitled to grant of anticipatory bail.

6. Accordingly, the application is allowed. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- with one surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:-

I) That the accused/applicant shall made himself available for interrogation before the concerned Investigating Officer as and when required;

II. The accused/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. The accused/applicant shall not act, in any manner which will be prejudicial to fair and expeditious trial; and

IV. 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.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge