

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 413 of 2020**

Raj Koshore Behra S/o Late Banmali Dakuwa, aged about 30 years R/o Qtr. no. 7/D, Sadak Avenue-A, Sector-6, Bhilai, Tahsil and District Durg (C.G.)

---- Applicant

**Versus**

State of Chhattisgarh through the District Magistrate Bemetara, Police Station Berla, District Bemetara (C.G.).

---- Respondent

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| For Applicant  | : | Mr. T.K. Jha, Advocate         |
| For Respondent | : | Mr. Alok Nigam, Govt. Advocate |

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Hon'ble Shri Justice Arvind Singh Chandel

**Judgment on Board**

**22/06/2020**

1. The matter is heard through video conferencing.
2. The applicant has filed this second bail application under Section 438 of the Cr.P.C for grant of anticipatory bail as he is apprehending his arrest in connection with Crime No. 210/2019 registered at police station – Berla District Bemetara (C.G.) for the offence punishable under Sections 420 and 409/34 of the Indian Penal Code.
3. First bail application of the applicant was dismissed for want of prosecution vide order dated 03/03/2020 passed in MCRCA No. 2000/2019.
4. In this case, there are total four accused persons. According to the case of the prosecution, the applicant applied for loan of Rs. 73.89 lacks for construction of POLY house from Dena Bank, Berla. POLY house was to be constructed by co-accused Prabir Chakraborty. It is

the case of the prosecution that without physical verification of the plot on which POLY house was to be constructed, the amount was sanctioned by co-accused Siddharth, Branch Manager of Dena Bank and out of sanctioned amount of Rs. 73.89 lacs, total Rs. 30 lacs was transferred in the account of co-accused Prabir Chakraborty and Prabir Chakraborty had transferred Rs. 9 lacs in the account of the present applicant in two transactions. Later on, during investigation it was found by the bank that no POLY house was constructed on the plot and thereby all the accused persons committed fraud to the bank. Thereafter, the present Branch Manager of the Dena Bank made an FIR and on that basis, offence has been registered.

5. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated. Virtually, the applicant is victim with whom the cheating was committed by co-accused Prabir Chakraborty and his wife Vandana Chakraborty. It is further submitted that prior to lodging the FIR, on 04/10/2018 the applicant had already made a complaint regarding cheating with him to the police official, inspite of that, the police had not conducted any inquiry, and later on the basis of report made by the present Branch Manager, he has been falsely implicated in this case. He further submits that the main accused is Prabir Chakraborty who obtained Rs. 30 lacs from bank for construction of POLY house, and has not constructed the POLY house on the plot of the applicant. Therefore, the cheating has been committed by co-accused Prabir. It is further submitted that co-accused Vandana and Siddharth have already granted benefit of anticipatory bail.

6. Learned counsel appearing on behalf of the State opposes the said application.
7. I have heard counsel for the parties.
8. Considering the facts and circumstances of the case and the argument advanced by counsel for the parties, particularly considering the fact that though the amount for loan was sanctioned in the name of the applicant for construction of POLY house, the amount was disbursed in the account of co-accused Prabir Chakraborty and Prabir Chakraborty has not constructed any POLY house, and further considering that prior to lodging the FIR, the applicant has already made a complaint regarding cheating with him, and also considering the fact that the total outstanding amount of loan has to be paid by the applicant, without further commenting on other merit of the case, I am inclined to release the applicant on anticipatory bail.
9. Accordingly, the anticipatory bail application is allowed.
10. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a bond in the sum of Rs.10,000/- 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 make 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 her by the said Court till disposal of the trial.

11. Certified copy, as per rules.

Sd/-  
**(Arvind Singh Chandel)**  
**Judge**

Rahul