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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 683 of 2020

- Arjun Nagwani, S/o Shri Rajesh Nagwani, Aged 27 Years R/o Nagwani Kirana Store, Chikhlipara, Khairagadh Road, Rajnandgaon, District Rajnandgaon Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh, Through District Magistrate, Police Station Supela District Durg Chhattisgarh.

---- Respondent

For Applicant	Ms. Savita Punjabi, Advocate
For Respondent/State	Mr. Ayaz Naved, Govt. Advocate
For Complainant/Axis Bank	Mr. Devershi Thakur, Advocate

SB.: Hon'ble Mr. Justice Prashant Kumar Mishra

Order On Board

25/11/2020

1. Heard.

2. This is an application filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail to the applicant, who is apprehending his arrest in connection with

Crime No.214/2020 registered at Police Station Supela, Durg for the offence punishable under Section 420 of the IPC.

3. The applicant obtained gold loan twice, firstly, on 30.4.2019, for Rs.3,13,000/- by depositing 162.200 gm of gold and secondly, on 2.5.2019, for Rs. 12,88,228/- by depositing 677.100 gm of gold. At the time of deposit, the Bank approved Valuer submitted a report that the applicant has deposited genuine gold. However, later on, during audit, the second Valuer submitted a report that the gold deposited by the applicant is fake and not genuine. The applicant also failed to repay the loan amount. The banker i.e. Axis Bank thereafter lodged the report on the basis of audit and the second report of the Valuer.

4. Learned counsel for the applicant would submit that the gold deposited by the applicant for obtaining loan was genuine 24 carat gold and the loan was approved by the Officers of the Bank, in which, the applicant had no role to play. She would also argue that the first Valuer or the Officers of the Bank had not been made accused, which shows that the gold deposited by the applicant did not suffer from any impurity.

5. Per contra, learned counsel for the State as well as learned counsel for the Objector/Axis Bank would submit that the applicant, his brother Rohit Nagwani and one Diksha Gajhbia have formed a gang to obtain loan defrauding the Bank. He would submit that Rohit Nagwani has already been arrested.

6. Having seen the case diary, it appears, at the time of processing

the loan at the beginning, the gold deposited by the applicant was tested by the Approved Valuer Mr. Satyavan Soni. Based on this report, the applicant was granted loan, therefore, there was no suspicion at the beginning that the gold deposited by the applicant was not genuine.

7. It is the case of the applicant that when the second testing was done in the presence of the auditor, the applicant was not summoned and the same was done in his absence. Moreover, if the gold was not genuine, the first testing report was the fake one, however, the first Valuer has not been made accused in this case nor any Bank Officer has been booked under this offence.

8. The applicant has already been allowed interim bail by this Court vide order dated 30.6.2020, therefore, considering the entire facts situation of the case, I am of the opinion that present is a fit case to extend the benefit of Section 438 of Cr.P.C. to the applicant.

9. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicant, he shall be released on anticipatory bail on his furnishing a personal bond for a sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the Arresting Officer with the following conditions :-

(i) he shall make himself available for interrogation by a Police Officer as and when required;

(ii) 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 for disclosing such facts to the Court or to any Police Officer.

(iii) he shall not influence the witnesses during pendency of the trial.

Certified copy as per rules.

Sd/-

(Prashant Kumar Mishra)

Judge

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