

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUROrder reserved on 25-11-2020Order delivered on 01-12-2020MCRCa No. 1001 of 2020

1. Aakash Singhal, S/o Shri Hansraj Singhal, Aged About 35 Years R/o Quarter No. G/B-28, Devrikhurd, Police Station Torwa, Bilaspur Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh, Through Station House Officer, Police Station Tikrapara, District Raipur Chhattisgarh.

---- Respondent

For Applicant	Mr. Rahual Tamsakar, Advocate
For Respondent /State	Mr. Alok Bakshi, Addl. Adv. General
For Objector	Mr. Sharad Mishra, Advocate

Hon'ble Mr. Justice Prashant Kumar MishraCAV Order

1. The applicant has preferred this ***first bail application for grant of anticipatory bail***, as he apprehends his arrest in connection with Crime No.271/2020, registered at Police Station Tikrapara, Raipur (CG), for offence punishable under Section 420 of the Indian Penal Code.

2. As per the material available in the case diary, the complainant and the applicant entered into an agreement for supply of coal. Pursuant to which the complainant made payment of Rs.22.40 lacs to the applicant, however, despite receiving the amount the agreed quantity of coal was not supplied, therefore, in terms of clause 6 of the agreement (Annexure – A/4) the FIR has been lodged. It seems after the first agreement and upon his failure to supply coal or to return the whole amount, the applicant paid Rs.4.00 lacs to the complainant and executed another agreement dated 7-3-2020 acknowledging that he has to make payment of balance amount of Rs.15.00 lacs. He also issued a cheque towards security for repayment, mentioning in the agreement that if the amount is not repaid the cheque can be encashed. However, when the cheque was produced for encashment the applicant instructed his banker to 'stop payment'.
3. Mr. Rahul Tamaksar, learned counsel appearing for the applicant, would argue that the subject transaction involves a civil dispute and offence under Section 420 of the IPC is not made out. Learned counsel would also argue that the required quantity of coal has already been supplied to the complainant.
4. *Per contra*, Mr. Alok Bakshi, learned Addl. Advocate General appearing for the State and Mr. Sharad Mishra, learned counsel appearing for the Objector would vehemently oppose the bail application. According to

them, the agreement itself entitles and authorises the complainant to take criminal action. Learned counsel for the Objector would submit that the applicant has never supplied coal to the complainant.

5. In course of hearing, when this Court specifically put a query as to whether the applicant has obtained a receipt from the complainant or her agent at the time of supply of coal it was answered that no such receipt is available. Thus, *prima facie*, there is no proof of supply of coal by the applicant to the complainant. In both the agreements the applicant has authorised the complainant to initiate criminal action in case he fails to supply the coal or to refund the amount. Thus, when the applicant has himself made him criminally liable under the contract, he cannot be allowed to agitate that the dispute is of civil nature.
6. Considering the entire facts situation of the case and particularly considering the fact that hefty amount involved, this Court is not inclined to extend the benefit of Section 438 of the Cr.P.C. to the applicant.
7. Accordingly, the bail application is rejected.

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri