

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5573 of 2020**

- Akash Yadav S/o Lallu Ram Yadav Aged About 25 Years R/o Station Para, O.P. Chikhali, Police Station Kotwali, District Rajnandgaon Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Basantpur, District Rajnandgaon Chhattisgarh.

---- Respondent

For Applicant	:	Shri Arvind Kumar Dubey, Advocate
For State	:	Shri H.S. Ahluwalia, Dy.A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****16/10/2020**

1. Heard on application for grant of bail.
2. The applicant has been arrested on 16.05.2020, on the allegation of having committed offence under Section 406, 420, 34 of I.P.C. He moved this application for grant of bail in connection with Crime No.146/2020 registered at Police Station- Basantpur, District- Rajnandgaon (C.G.).
3. Prosecution case is that the applicant open an employment scheme on contract basis for typing services under the home based typing company. The applicant recruited the complainants for the said work, for which they had to deposit Rs. 18,000/- as a security money and for the typing work they would be paid Rs. 12,000/- per month. Further condition was that each of them will have to add five more persons engaged otherwise salary would not be paid.

After January, 2020 the applicant stopped making payment of salary and then it gave rise to dispute because further work was not allotted nor any salary paid and the security amount was also not refunded. This led to filing of report in police station by complainants stating that they have been cheated by the applicant by not giving refund of Rs. 18,000/- deposited as security. According to the prosecution in the name of providing employment, applicant collected

40,76,500/- from as many as 127 persons and thus committed cheating.

4. Learned counsel for the applicant would argue that there is no element of cheating involved in the employment scheme floated by the applicant. He would submit that the applications were invited in an open advertisement clearly stating all the conditions. All the desired persons applied with open eyes, they deposited Rs. 18,000/- and all of them paid salary for about seven months which was much more than the amount deposited by the complainants. He would further submit that merely because the employment scheme was discontinued, further payment was not made, no cheating can be said to have been done.
5. On the other hand, learned State Counsel opposes the prayer for grant of bail and submits that the scheme of employment of the applicant was only to collect the amount rather than giving any employment to anybody. Applicant wound up his employment work of typing without payment of salary and also misappropriated Rs.18,000/- deposited by each employee by way of security money, therefore, prima-facie case is made out.
6. I have heard learned counsel for the parties and material disclosed from the charge-sheet and case diary, prima-facie, it appears that the persons including complainant accepted the offer of the employment on the basis of certain terms and conditions floated by the applicant. The three complainants on record also show that all those persons were paid salary for about 7 months that means everyone was paid 84 thousand till the employment scheme was discontinued. The allegation of collection of security amount from each person at the rate of 18,000/- from 127 persons have given rise to a claim by those employees who have been discontinued, therefore, there is considerable force in the submission of learned counsel for the applicant that claim of refund is a contractual dispute, therefore, considering the facts and circumstances of the case and aforesaid submission made by the learned counsel for the applicant, it is fit case for grant of bail.
7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on bail, on his furnishing a personal bond in the sum of Rs.25,000/- with two local sureties for the like amount to the satisfaction of the Trial Court on the condition that-
 - a) He shall appear before the Trial Court regularly on each and every date,

unless exempted from appearance.

b) The applicant shall not in any manner, tamper with the prosecution witnesses.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Nadim