MCRCA No. 1239 of 2020

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1239 of 2020

- Pushpendra Jaiswal S/o Shri Ramji Jaiswal Aged About 40 Years R/o Naya Bus Stand, Ratanpur, P.S. Ratanapur District Bilaspur, Chhattisgarh,

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station Incharge-Police Station-Ratanpur, District Bilaspur Chhattisgarh

---- Respondent

For Applicant	Mr. Ankit Singhal, Advocate
For Respondent /State	Mr. Ravish Verma, Government Advocate

SB: Hon'ble Mr. Justice Prashant Kumar Mishra
Order On Board

10/12/2020

1. Heard.

1. 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.405/2020 registered at Police Station Ratanpur, District Bilaspur for the offence punishable under Sections 406, 420 of the IPC.

2. As per the FIR lodged by complainant Shri Ram Finance Corporation Limited (henceforth “Company”), on 22.6.2020, the Company had an agreement with the Proprietorship Firm of the

accused in the year 2014 for extending finance facilities to the vehicle purchasers, however, the accused did not deposit an amount of Rs.76,64,041/- with the Company and the amount has been misappropriated. It is alleged in the FIR that after selling the vehicle on finance from the complainant Company, the accused used to receive payment of installments from the customers but the same were not deposited regularly with the Company. The accused closed the dealership in the year 2017, where-after, the complainant Company contacted the customers/vehicle owners, who informed the Company that the installments have already been paid/deposited with accused Pushpendra Jaiswal.

3. Learned counsel for the applicant would submit that the applicant has always deposited the installments received from the customers. After the closure of the dealership, some dispute occurred between the complainant Company and the accused, which was not resolved by the Company for three years and later on, an FIR has been lodged after a delay of 3 years, which itself demonstrates that a false report has been lodged.

4. On the other hand, learned counsel for the State opposes the bail application.

5. In the report, it is mentioned that the agency was closed in the year 2017, however, the FIR has been lodged after 3 years i.e. on 22.6.2020. In the written complaint, it is stated that the accused was issuing receipts to the consumers, however, no such receipt

is available in the case diary.

6. Considering that the dispute arise out of an agreement between the parties and the FIR is delayed by about 3 years, I am inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.

7. 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

Gowri