

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No.1809 of 2019**

Sunny Jain S/o Late Shri Ashok Kumar Jain Aged About 35 Years  
 Proprietor, Sunny Borewales, Rajnandgaon, R/o Sunny Borwales, Old  
 Bus Stand Road, In Front Of United Hospital, Rajnandgaon, District  
 Rajnandgaon, Chhattisgarh **---- Applicant**

**Versus**

State Of Chhattisgarh Through Station House Officer, Police Of Police  
 Station Telibandha, Raipur, District Raipur, Chhattisgarh

**---- Respondent**


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| For Applicant        | : | Mr. T.K. Jha, Advocate.      |
| For Respondent/State | : | Mr. Ravish Verma, G.A.       |
| For Objector         | : | Mr. Himanshu Sinha, Advocate |

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**Hon'ble Shri Justice Manindra Mohan Shrivastava****Order On Board****22/07/2020**

Heard.

1. The applicant is apprehending his arrest in connection with Crime No.492/2019 registered at police station–Telibandha, Raipur (C.G.) for alleged commission of offence under Section 420 read with Section 34 of IPC.
2. Prosecution story is that the applicant with intention to cheat the complainant, obtained huge payment of Rs.56,12,000/- on the assurance of supplying 1700 tones of cement. According to the prosecution, the applicant having received huge amount, did not supply any cement to the complainant and in this manner, recovered huge amount with intention to cheat.
3. Learned counsel for the applicant would argue that present is a case of

dispute with regard to quantity and quality of supply of cement. He would argue that the allegation that the applicant did not make any supply is only with an object to harass the applicant. Learned counsel for the applicant further argues with reference to number of invoices/receipts filed by him including payment of GST receipts to submit that the applicant made supply of cement to complainant from time to time which is prima facie established from invoices/bills receipts which have been placed on record. His next submission is that on 09.02.2019 also the complainant had lodged a report in the police station making similar allegation on which in the concerned police station, enquiry was made and no case was found for registration of criminal case, therefore, proceedings under Section 155(2) of Cr.P.C. were drawn. Thereafter, the applicant filed a report in Police Station Telibandha, Raipur on 14.10.2019. Referring to the decision of the Supreme Court in the case of **Tilak Nagar Industries Ltd. and others Vs. State. of Andhra Pradesh and another, 2011(15) SCC 571**, it is argued that in view of proceedings earlier drawn on Rajnandgaon police Station, new proceedings in respect of the same complaint could not be entertained by the Police Station Telibandha unless there was an order to that effect passed by the Magistrate, therefore, the entire criminal case itself is not maintainable.

4. On the other hand, learned counsel for the State and Objector submit that the applicant is involved in cheating the complainant. They would submit that the applicant having no intention to supply cement obtained huge payment of Rs.56,12,000/- through RTGS from the complainant. These payments were made in the month of January, 2019. When supplies were not made, the complainant insisted for supply and then the applicant started threatening to which he had to report in the Police Station Rajnandgaon. It is further argued that the invoices and bills are forged document and the vehicles through which

goods are said to be transported are not found in existence as per the report of RTO. It is further submitted that through small carriers, it is said that huge quantity of cement was supplied which shows that the invoices and bills are false and fabricated.

5. In the present case, the allegations against the applicant are that he obtained huge payment of more than Rs.56,00,000/- and absolutely no supplies were made to the complainant. The material which has been placed before this Court by the State, in which, during investigation, it has been found that the invoices transport details are forged documents and further taking into consideration that the applicant has not placed any material to show that as a trader he has been receiving huge quantity of cement by purchasing from another manufacturer or any other supplier and in turn, supplying these goods, it is not a fit case for grant of anticipatory bail. Accordingly, the bail application is rejected.

6. Learned counsel for the applicant submits that the applicant may be granted liberty to apply for regular bail and the same may be directed to be decided on the same day as his mother is not keeping well and he has small children.

7. Having considered the submission, in case, the applicant surrenders, cooperates and applies for regular bail, the same shall be decided at the earliest.

Sd/-

**(Manindra Mohan Shrivastava)**

**J U D G E**