

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 493 of 2021**

- Surendra Prasad Jaiswal (Surname Jaiswal Is Not Mentioned In Order Sheet) S/o Shri Radheshaym Jaiswal Aged About 64 Years R/o E 46 Metal Alloy, Industrial Area Ramnagar, Police Station Mugalsarai District Chandauli (Uttar Pradesh), District : Chandauli \*, Uttar Pradesh

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through The Police Station Old Bhilai District Durg Chhattisgarh., District : Durg, Chhattisgarh

**--Non-Applicant**

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|-------------------------|---|----------------------------------------------------------------|
| For Applicant           | : | Shri P.K. Verma, Sr. Advocate with Shri Vipin Tiwari, Advocate |
| For Non-Applicant/State | : | Shri Dinesh Tiwari, Dy. G.A.                                   |
| For Objector            | : | Shri Aman Pandey, Advocate                                     |

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**Hon'ble Justice Shri Gautam Chourdiya**

**Order on Board**

**01/02/2021**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested on 9.12.2020 in connection with Crime No.403/2020, registered at Police Station- Old Bhilai, District Durg (C.G.) for the offence punishable under Sections 420, 406, 409 of the IPC.
2. Case of the prosecution is that on 2.12.2020 complainant Sanjay Mathur has made a complaint that there was an oral agreement between the complainant and the applicant for purchase of 417 KI Sludge Heavy Furnace Oil by sale consideration of Rs.70,00,000/- and he made payment of Rs.70,00,000/- to the present applicant, but he supplied oil only for Rs.26,36,813/- and

he has not supplied oil for rest of the amount Rs.43,63,187/- nor he returned the same to the complainant. Based on this, an offence has been registered against the applicant and he was arrested.

3. Learned counsel for the applicant submits that the allegations against the applicant are false and fabricated and he has been falsely implicated in the case. He submits that as per agreement, the applicant has supplied 218 KL of furnace oil for Rs.40,05,775/- and thereafter, the complainant did not send vehicle for transportation of the same, therefore, rest of the oil could not be sent and that is pending with Patratu Vidyut Utpadan Nigam Ltd. He submits that yet charge sheet has not been filed and no offence is made out against the applicant under the above mentioned Sections of the IPC, therefore, at this stage, he may be granted bail.
4. On the other hand, learned counsel for the Non-Applciant/State as well as learned counsel for the Objector opposes prayer for grant of bail. Learned counsel for the Objector stated that the applicant has restrained the complainant from lifting the oil.
5. Having considered the submission made by learned counsel for the parties, the nature of allegations against the applicant; the fact that as per Annexure A5, Rs. 70 lacs paid by the complainant to the applicant was transferred by the applicant in the account of Patratu Vidyut Utpadan Nigam Ltd. on the same day, who was the original supplier of HFO sludge, the delivery order of Annexure P6, dispute between the parties appears to be of commercial nature, the detention period of the applicant, who is 64 years of age, the offence is triable by Magistrate; and conclusion of trial is likely to take some time, without commenting on merits, I am inclined to grant bail to the applicant.
6. Accordingly, the bail application is allowed.
7. It is directed that in the event of the applicant executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs.

1,00,000/- each to the satisfaction of the concerned Trial Court,  
he shall be released on bail on following conditions:-

(a) 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 from disclosing such fact to  
the Court.

(b) he shall not act in any manner which will be prejudicial to  
fair and expeditious trial, and

(c) he shall appear before the trial Court on each and every  
date given to him by the said Court till disposal of the trial.

(d) he shall not involve himself in any offence of similar  
nature in future.

Sd/  
**(Gautam Chourdiya)**  
**Judge**

sunita