

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 225 of 2021

- Deepak Agrawal S/o Shri Chandrabhan Agrawal Aged About 57 Years R/o In Front Of Mandir Kotra Road Raigarh Tahsil And District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- Petitioner

Versus

1. State Of Chhattisgarh Though Station House Officer Police Station Kotwali Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh
2. Manish Kumar Mishra S/o Arun Kumar Mishra Aged About 48 Years R/o Ward No. 17 Village Marra Post Marra Tahsil Patan District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Respondents

For Petitioner	:	Shri Hari Agrawal, Advocate
For Respondent No.1/State	:	Shri B.L. Sahu, Advocate
For Respondent No.2	:	None

Hon'ble Shri Justice Gautam Chourdiya, J.
Order On Board

09.03.2021

1. Heard on admission.
2. The petitioner has filed this petition under Section 439(2) Cr.P.C. against the order dated 9.12.2020 passed by the I Additional Sessions Judge (FTC) Raigarh, granting anticipatory bail to accused/respondent No.2 in connection with Crime No. 925/2020, registered at Police Station Kotwali, Raigarh, District Raigarh(CG) for the offence punishable under Section 420 of the IPC.
3. Facts of the case in brief are that a partnership deed was executed between the complainant and respondent No.2 for running a press

business in the name of Mahakoshal Press which would publish and circulate the newspaper on pan-India basis and the head office of the firm would be situated in Raipur and the complainant would be given 50% profit of the said business. The complainant transferred the amount of Rs.19,19,000/- in the account of Mahakoshal Press on different occasions. Thereafter, the complainant came to know that yet respondent No.2 has not opened the partnership account, on which the complainant demanded his money from respondent No.2 and he gave some cheques to the complainant which were dishonored. Thereafter, a report was lodged by the complainant against respondent No.2.

4. Learned counsel for the petitioner submits that the petitioner and respondent No.2 met in the year 2018 and respondent No.2 represented himself as press/media person and said that he wanted a partner in his business, on which, the complainant entered into partnership agreement with respondent No.2 and invested a total sum of Rs.19,19,000/- but, later on the complainant came to know that respondent No. 2 has not opened the partnership account and is running his old business, therefore, he demanded his money, but the cheques given by respondent No.2 got dishonored. Thereafter, the complainant filed a case under Section 138 of the Negotiable Instruments Act which is pending consideration before the court below on account of dishonor of the cheques due to insufficient balance and a written report was made by the complainant on 28.11.2020 against respondent No.2 and an offence under Section 420 IPC was registered against respondent No.2. He further submits that the court below has failed to consider the fraudulent act of respondent No.2 properly and passed the order of anticipatory bail, which is perverse and the same is liable to be

cancelled and respondent No.2 be directed to surrender before the trial Court for sending him to jail.

5. On the other hand, learned counsel for the State supports the impugned order.
6. It is a settled principle of law that considerations for grant of bail and cancellation of bail are quite different. It is not disputed that respondent No.2 has been granted anticipatory bail on 9.12.2020 and since then he has not misused the liberty of anticipatory bail. There is also no allegation against him regarding tampering with the evidence or influencing or intimidating the witnesses. Charge sheet has been filed in this case and after considering the facts and circumstances of the case, the trial court has released respondent No.2 on anticipatory bail. The petitioner and respondent No.2 have entered into partnership agreement and thereafter business transactions were taken place between them. Nothing has been brought to the notice of the court to show that respondent No.2 has misused the liberty of anticipatory bail or violated any of the conditions imposed on him by the trial Court while granting him bail. Therefore, no case for cancellation of bail is made out.
7. Accordingly, the petition is dismissed at the admission stage itself.

Sd/

(Gautam Chourdiya)
JUDGE