

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 743 of 2021**

Ashutosh Rai S/o Shri Rambahadur Aged About 25 Years R/o
Kedarpur, Ring Road Ambikapur P.S. Ambikapur District
Surguja Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through Police Station Ambikapur
District Surguja Chhattisgarh.

---- Non-applicant

For Applicant : Shri Bhaskar Payashi, Advocate
For Non-applicant/State : Ms. Anjali Singh Chauhan, Panel Lawyer
For Objector : Shri Ankur Agrawal, Advocate

(Proceedings through Video Conferencing)
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

10.08.2021

1. The applicant has preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No. 167 of 2021 registered at Police Station Ambikapur, District Surguja, Chhattisgarh for offence punishable under Section 420 of Indian Penal Code.
2. Case of the prosecution, in brief, is that, complainant lodged a report before the concerned Police Station on 11.02.2021 making allegations that present applicant on the false assurance that he will provide him a Government job in SECL has taken Rs.4,03,000/- in different installments. After lapse of some time, he could not get the employment as assured by applicant. When

he approached the applicant for refund of his money, he denied the same. It is also mentioned that cash amount of Rs.85,000/- was given in presence of Prakash Sonkar at Gandhi Nagar Stadium and given a cheque of Rs.2,58,000. Based on the aforementioned complaint, instant crime is registered against the present applicant.

3. Shri Bhaskar Payashi, learned counsel for the applicant would submit that absolutely false and frivolous allegations have been levelled against the applicant. He further submits that applicant and complainant were doing business of sale and purchase of old vehicles jointly. Some dispute arose between them with regard to money transaction, hence, false case has been registered. He pointed out that complainant is not an unemployed person, he was doing the business of providing vehicles on hire and for that, complainant entered into partnership deed, which is available in the record along with application for taking documents on record. The partnership deed executed between the complainant and Reena Roy (*Bhabhi* of applicant) was executed on 10.02.2021, hence, there was no occasion for the applicant to hand over the money for getting a Government employment. It is further pointed out that one Chandrma Shrivastava has also lodged a complaint before the Police Station on 10.01.2021 against the complainant raising a dispute that complainant has taken on hire the vehicle at the rate of Rs.500/- per day, but has not paid the amount of rent of vehicle, which shows that applicant was not in the need of Government employment, therefore, *prima facie* allegation

levelled against the present applicant is false and frivolous. It is contended that cheque of Rs.2,58,000/- which is stated to be given to the complainant bearing cheque No.521194 is deposited in the account of applicant on 12.11.2020. In the complaint, allegation of complainant is that he handed over the cheque on 08.11.2020, on the said date applicant was outstation, he was in Odisha where he got infected with COVID-19 and was found positive, which is apparent from Annexure A/4. Further bank transaction on 09.11.2020 of withdrawal of the amount from the ATM shows that it was from the ATM of Odisha. He submits that applicant was not available at Ambikapur where alleged handing over the cheque is stated by the complainant. He further argued that as the complainant and applicant was doing the joint business of sale and purchase of vehicle, there was some money dispute. The Scorpio vehicle was sold to one Umesh Bhagat and he has paid the amount with respect to sale of vehicle through disputed cheque bearing No.521194 and said cheque was deposited in his account. He further pointed out that documents filed by the objector shows that cheque amount of Rs.2,58,000/- has been deposited in the account of the applicant whereas the document shows that Rs.2,48,000/- is deposited through cheque which also shows that allegations are not correct, hence, applicant may be enlarged on anticipatory bail.

4. Per contra, Ms. Anjali Singh Chauhan, learned Panel Lawyer for the State vehemently opposes the bail application and would submit that in the First Information Report, there is specific

allegation that complainant has handed over Rs.85,000/- to present applicant in cash after discussion that applicant will provide him a Government job in SECL. The amount of Rs.85,000/- has been paid in presence of Prakash Sonkar and his statement is also recorded by the Police under Section 161 of the Cr.P.C. She pointed out that the details of transfer of amount has also been specifically mentioned in the First Information Report, hence, submission made by learned counsel for the applicant to state that false and frivolous allegation is made in view of specific allegations in First Information Report may not be sustainable.

5. Shri Ankur Agrawal, learned counsel for the complainant/objector would submit that applicant has taken different defence at different points of time. He submits that when this application came up for hearing on earlier date, defence was taken that there was dispute with regard to tenancy between complainant and applicant. Some amount which has been paid by the complainant to the applicant towards arrears of rent of rented premises being tenant, but as there was no document, sought time to place the relevant documents in this regard. He further pointed out that other defence which was taken with regard to sale of vehicle by applicant to Umesh Bhagat is also not correct. He submits that Umesh Bhagat has executed the document stating that Scorpio vehicle has been sold by complainant to him and he handed over a cheque of Rs.2,58,000/- towards purchase price of vehicle to complainant Jai Prakash Yadav. Later on, he came to know that Jai Prakash Yadav handed over the cheque to complainant

towards money for getting Government employment. It is contended that as the applicant taken the different stands at different points of time, which itself shows that applicant has not come to the Court with clean hands.

6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of the case, nature of allegations levelled by the complainant against the present applicant; submission made by learned counsel for the applicant, State and the complainant/objector, document filed by objector and the statement of Prakash Sonkar recorded under Section 161 of the Cr.P.C., I do not find it to be a fit case to enlarge the applicant on anticipatory bail.
8. Accordingly, anticipatory bail application is dismissed.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge