

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No. 359 of 2021**

1. Sudeep Chitlangia S/o Late Purushottam Das Chitlangia Aged About 54 Years R/o 12 B, Judges Court Road Calcutta (West Bengal)
2. Jagdish Dua S/o Late Saligram Dua, Aged About 54 Years R/o Rajendra Dev Road Calcutta (West Bengal)

**---- Applicants**

**Versus**

State Of Chhattisgarh Through Police Station Champa District  
Janjgir Champa Chhattisgarh

**---- Respondent**

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For applicants – Shri Manoj Paranjpe, Advocate.  
For Respondent/State –Shri Rahul Jha, G.A.  
For objector – Shri Parag Kotecha, Advocate.

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order**

**22/07/2021**

1. This application under Section 438 of Cr.P.C. has been filed by the applicants apprehending their arrest in connection with Crime No.19/2021 registered at Police Station Champa, District Janjgir-Champa (C.G.) for offence punishable under Section 420 of IPC.
2. As per the prosecution case, the applicants who are the directors of a company JSM and running a paper mill obtained certain raw material from the complainant SKS Enterprises and SGS Supplier and used them on the assurance in lieu of the cheques given. According to the FIR the cheques though were given were requested not to put them for clearance, subsequently when the cheques were presented they were dishonoured, though the part was paid. It is therefore as per the prosecution the applicants knowing fully well the condition availed the raw material and used them by giving the cheque knowing that no sufficient balance is in the account.
3. Learned counsel for the applicants submits that it is an out and out

commercial transaction having received the goods the cheques were given, few of the amount was paid, however due to lack of amount the cheques could not be honoured. He further submits that till today the applicants accept their liability and submit that they will pay the amount.

4. Per contra, learned State counsel and learned counsel for the objector would submit that despite knowing the fact that there is no amount in the account cheques were given in lieu of the raw material received, therefore there is intention as per section 415 of IPC as the applicants intentionally deceived the complainant to believe that they have means to repay and thereby dishonestly induced to lend him the goods but not intending to repay, therefore this is not a case where the benefit of Section 438 Cr.P.C. can be extended.

5. Perused the case diary and the FIR. FIR contains the fact that the cheques were given by the applicants on behalf of the company to the complainant but assured not to lodge them in the bank and take any legal action but the goods were continued to be supplied on the assurance that amount would be paid. Therefore, the applicants made to believe the complainant that they have means to pay and prima facie dishonestly induced the complainant to lend the goods but eventually the intention was not to pay. The applicants therefore prima facie appears to have been in know of the fact that there is no amount in the account but certain assurance was extended to the complainant to receive the goods and it was used. Taking into totality of the facts, it is not a case where the benefit of Section 438 of Cr.P.C. can be extended to the applicants.

6. Accordingly, the anticipatory bail application is rejected. Sd/-

(Goutam Bhaduri)

JUDGE