

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1743 of 2021

- Ashish Gupta S/o Late Ramchandra Gupta Aged About 45 Years
R/o 734 Padmnabhpur Durg Tahsil And District Durg Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Gudiyari Tahsil And
District Raipur Chhattisgarh

---Respondent

For Applicant – Shri Prafull N. Bharat, senior advocate along
with Shri Anand Shukla, Advocate.

For Respondent/State – Shri Rahul Jha, G.A.

For Objector - Shri Anil Pillal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order

19/07/2021

Heard.

1. This is the First Bail Application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 08.02.2021 in connection with Crime No. 449/2019 registered at Police Station- Gudiyari, Tahsil and District Raipur C.G. for the offence punishable under Sections 420, 419, 409 read with section 34 of I.P.C.
2. As per the prosecution case, a report was made by Jai Baba Krishna Trading Company that the applicant in order to commit a fraud to avoid the payment has siphoned the money in his sister

concern Ganpati Wires, though the applicant was running a company/ factory name Ganpati Steels and Ganpati Allied was to pay the amount to Jai Baba Krishna Trading Company. It is stated that Ganpati Steels and Ganpati Allied owed money to Jai Baba Krishna Trading Company for supply of certain steel wires and the amount having not been paid, the agreement was arrived at wherein factory to be run by applicant whereby 45 % was to be cleared for outstanding dues and 55 % for the ongoing transaction and the applicant was to get the certain amount as salary. It is further stated that the applicant has made a misstatement though his original Anticipatory Bail application was rejected whereas while extending the interim bail bond false statement was made.

3. Learned counsel for the applicant submits that this is a case of business transaction and recovery of amount. It is stated since after transaction the amount could not be paid to Jai Baba Krishna Trading Company, an agreement was arrived at whereas the applicant has admitted his liability and in the transaction two cheques given by applicant were also bounced. He would submit that as per the agreement since the liability is admitted no criminal intention can be arrived at, further while referring the account sheet for money transaction he would submit certain amounts were paid at different point of time to the complainant, therefore the civil liability have been converted into criminal, so the applicant may be released on bail.

4. Per contra, learned State counsel and counsel for objector opposes

the prayer for grant of bail and would submit that the applicant himself has made false statement before the police officers to get the interim bail though the interim bail was rejected. They further submit that the amount which was to be paid by Ganpati Steels and Ganpati Allied to Jai Baba Krishna Trading Company was siphoned to another firm i.e. Ganpati wires and money was paid in such account, therefore the intention to not to pay despite the agreement exists, it is further submitted that the amount so paid by Ganpati Steel was in respect of the raw materials supplied and not in respect of the agreement.

5. Heard learned counsel for the parties and perused the documents.
6. The documents which is filed in this case shows that anticipatory bail order by High Court was uploaded on 22.12.2020 and the undertaking for continuing of interim bail which the applicant gave was on 18.12.2020, however on 22.12.2020 the interim bail was rejected thereafter the applicant surrendered on 08.02.2021. Perused the documents, the agreement and the amount it appears that all the evidence are documentary in nature. The charge sheet has been filed. Further considering all the evidence and primarily the background, I am of the view that no purpose would be served by keeping the applicant in jail, as no further investigation or custodial investigation would be necessary, therefore, I am inclined to release the applicant on bail.
7. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his executing a personal bond

in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given by the said Court.

Sd/-

(Goutam Bhaduri)

Judge

Jyoti