

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C. No. 2378 of 2021

- Kailash Sen S/o Dhanesh Sen, aged about 46 years, R/o Rameshwar Nagar, Near Bandhwa Talab, Bhanpuri, Raipur, Tehsil & District Raipur (C.G.)

---- Applicant

Versus

- State of Chhattisgarh, Through : Station House Officer, Police Station – Devendra Nagar, District Raipur (C.G.)

---- State/Non-Applicant

For Applicant	:	Shri Shubham Tripathi, Advocate
For Non-Applicant/State	:	Shri Ayaz Naved, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J

Order on Board

21.06.2021

1. The applicant has preferred this first bail application under Section 439 of Cr.P.C. as he is in jail since 11.01.2021 in connection with Crime No. 90/2014 registered in Police Station- Devendra Nagar, District Raipur (CG) for the offence punishable under Section 420 of IPC.
2. Prosecution case in brief is that the present applicant in the year 2009 obtained TIN No. 22421702295 from Commercial Tax Department for sale of Oil, Grains and Poha in the name of K.K. Traders situated at Laxmi Nagar, Mowa Raipur (C.G.). Thereafter, the applicant commenced business and during the year 2009 to 2014 sold goods to several purchasers with bill, thereby received the consideration amount and also collected VAT (Value Added Tax) from the purchasers, as proprietor of K.K. Traders. But the applicant never deposited the collected VAT to the Commercial Tax Department causing loss of Rs.18,80,000/- to the department and defrauded the State. Upon complaint of Commercial Tax Officer the police has registered offence under Section 420 of IPC against the present applicant and arrested him in connection with the same.
3. Learned counsel for the applicant submits that the applicant has been falsely

implicated in this crime, he is languishing in jail since 11.01.2021 and due to Covid-19 pandemic, conclusion of the trial is likely to take some time. Therefore, the applicant be released on bail.

4. Learned counsel for the applicant further submits that the applicant is only a proprietor of K.K. Traders, in fact the K.K. Trakder is run and managed by one Vinay Kumar Singh, who tempted the present applicant by promising him that he will conduct an honest business in the name of the applicant and the applicant will be able to obtain loan from the bank. He submits that Vinay Kumar Singh has also accepted the same in his testimony before Deputy Director of Income Tax Department, Raipur.
5. On the other hand, learned counsel for the State opposes the bail application.
6. Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, considering the detention period of the applicant who is 46 years old, charge-sheet has already been filed, due to Covid-19 pandemic, conclusion of the trial is likely to take some, offence is triable by Judicial Magistrate First Class, the applicant has no criminal antecedent as admitted by both the counsel, there is no apprehension of the applicant tampering with the evidence or absconding, without expressing any opinion on merits of the case, the bail application is allowed.
7. It is directed that in the event of applicant executing a personal bond for a sum of Rs.4,00,000/- with two sureties of Rs.2,00,000/- each to the satisfaction of the concerned trial Court, he shall be released on bail on the following conditions:-
 - i. 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/her from disclosing such fact to the Court.
 - ii. he shall not act in any manner which will be prejudicial to fair and expeditious trial, and
 - iii. he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

- iv. he shall strictly follow the COVID-19 protocol issued by the Central Government / State Government / Local Authority.
 - v. he shall not involve himself in any offence of similar nature in future.
8. Let a copy of this order be forwarded to the concerned Police Station forthwith who shall inform the trial Court in the event of applicant involving himself in similar nature of offence.

Sd/-
(Gautam Chourdiya)
Judge

vatti