

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 519 of 2021

Jai Prakash Agrawal S/o Late Shri Govind Prasad Agrawal Aged
About 66 Years R/o Sadar Bazar, Subhash Chowk, District Raigarh
Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station City Kotwali Raipur
District Raipur Chhattisgarh

---- Respondent

For applicant – Shri Manoj Paranjpe, Advocate.
For Respondent/State –Shri Anmol Sharma, PL.
For objector – Shri Kashif Shakeel, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

05/08/2021

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No.72/2021 registered at Police Station City Kotwali, Raipur, District Raipur (C.G.) for offence punishable under Sections 409, 420 read with section 34 of IPC.
2. As per the prosecution case, one complaint was made on behalf of Mahaveer Chand who is the proprietor of Anup Jewelers that the present applicant alongwith his son who runs a jewelery shop in the name of LD Jewelers in order to open a business of gold received a gold ornaments of value more than four crores and thereafter the cheques were given by Sameer Agrawal who is the proprietor of Sameer Traders and cheque was dishonoured. FIR further allege that at the behest of the present applicant and his son Sameer Agrawal the complainant was allured to start business at Raigarh and thereafter the ornaments were handed over but the amount was not paid. Consequently, made a cheating and breach of trust as the ornaments 8.40 kg were though received but the amount was not paid.
3. Learned counsel for the applicant submits that the applicant is aged

about 66 years. He refers to the affidavit of Sameer Agrawal one of the co-accused and son of present applicant and would submit that since the conduct of the son was not good as such Sameer Agrawal was separated from property of family by partition and thereafter Sameer Agrawal opened a new shop in the name of Sameer Traders. He would submit that Sameer Agrawal also opened a new shop which would be evident from the GST portal and number and publication was made that the applicant disowned his son in news paper which is by Annexure A-4 on 23/03/2017 much before the incident. It is further submitted that the Anup Jewelers the complainant was having a transaction with Sammer Traders the son of the applicant and the applicant was no way involved but since he is man of repute and carrying on the business in order to take the money in order to have a arm twisting the applicant's name has been included in the FIR. Therefore, considering his age and the fact that he has already disowned his son, the applicant may be granted benefit of anticipatory bail.

4. Per contra, learned State counsel and learned counsel for the objector vehemently opposes the arguments. It is submitted that the applicant and his son both carrying on the business and therefore the fact that the son has been disowned may not be correct. He would submit that internal transaction were also made in between LD Jewelers I.e. of the applicant and Sameer Traders son of the applicant, therefore the relation was not severed. He would submit that similar complaints were made by few of the jewelers, therefore the applicant may not be extended benefit of anticipatory bail.

5. Perused the documents. On specific query being made to the objector whether any transaction in between Anup Jewelers and LD Jewelers have been made according to the copy of the account it is found that no transaction was made in between the Anup Jewelers the complainant and the LD Jewelers of which the applicant is proprietor. The most pertinent part which comes to fore is about the affidavit of the year 2018 and prior to

complaint and a publication made by the applicant in daily news paper on 23/03/2017 which is filed as Annexure A-4. Reading of it would show that the applicant has severed the relation with his son and certain allegations have also been made on the other co-accused Sameer Agrawal. Considering those nature of publication which were made much prior to the alleged incident in the year 2017 the fact that no primary transaction is found in between the complainant and the applicant, considering the nature of transaction and the age of the applicant, I am inclined to extend benefit of anticipatory bail to the applicant.

6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:-

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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 facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Goutam Bhaduri)
JUDGE