

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 701 of 2021

1. Gulab Gidwani S/o Late Shri Preetam Das Gidwani, Aged About 44 Years, R/o Flat No. 404, A-Block, Narayan Heights, Sanjay Ward, Bhatapara, Civil And Revenue District Baloda Bazar-Bhatapara (C.G.).
2. Kailash Gidwani, S/o Late Shri Preetam Das Gidwani, Aged About 53 Years, R/o Flat No. 301, A-Block, Narayan Heights, Sanjay Ward, Bhatapara, Civil And Revenue District Baloda Bazar-Bhatapara (C.G.).

---- Applicants

Versus

1. State Of Chhattisgarh, Through PS. Civil Lines, Raipur, District Raipur (C.G.).
2. Yogesh Varlyani, S/o Shri Ramesh Varlyani, Aged About 43 Years, C-9, Shailendra Nagar, Raipur, District Raipur (C.G.).

---- Non-Applicants

For Applicants	:	Mr. Kashif Shakeel, Advocate.
For State	:	Mr. Ayaz Naved, Govt. Advocate.
For Respondent No. 2	:	Mr. Vivek Kumar Shrivastava, Advocate.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

17/06/2021

- 1) The matter is heard through Video Conferencing.
- 2) Heard on admission.
- 3) The application is admitted for hearing.
- 4) With the consent of the parties, the matter is heard finally.
- 5) The applicants have preferred this First Bail Applications under Section 438 of Cr.P.C. as they are apprehending their arrest in connection with Crime No. 146/2021 registered at Police Station Civil Lines, Raipur, District Raipur (C.G.) for the offence

punishable under Sections 420/34 of Indian Penal Code.

- 6) Case of the prosecution in brief is that complainant Yogesh Varlyani lodged a report at Police Station-Civil Line, Raipur that he had given Rs. 4 lacs on credit to the present applicants on the assurance of the applicants that they will return the same within 4-5 months. When the complainant demanded his money, on 10.12.2020 the applicants gave him a cheque bearing No. 077076 dated 10.12.2020 of HDFC Bank, Raipur-Bhatapara. However, on the said check being presented for encashment before the bank on 30.12.2020, the same stood dishonoured due to difference in the signature of the drawers. When the complainant informed about the same to the applicants and demanded his money back, they refused and thus, they have committed cheating and fraud with the complainant.
- 7) Learned counsel for the applicants submits that the applicants are innocent persons and have been falsely implicated in this case. Compromise between the parties has already taken place vide Annexure P/2 whereby the applicants have returned the entire amount of Rs. 4 lacs to the complainant and the dispute between them has been amicably resolved.
- 8) On the other hand, learned counsel for the respondent/State opposes the bail application. However, he submits that it is not disputed the fact that compromise between the parties has been effected and the applicants have returned the entire amount to the complainant.
- 9) Learned counsel for the complainant has no objection to release of the applicant on bail. He also admits execution of the agreement between the parties vide Annexure P/2.
- 10) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, the nature of allegation against the applicants, in particular the fact that compromise has taken place between the parties whereby the entire amount has

been given to the complainant, no custodial interrogation of these applicants is required, though the matter is under investigation, however, no apprehension is shown by the State Counsel of their absconding or tampering with or influencing the witnesses, without commenting anything on merits of the case, this Court is of the opinion that present is a fit case for granting anticipatory bail to the applicants. Accordingly, the application is allowed.

- 11) It is directed that in the event of arrest of the applicants in connection with the aforesaid crime, they shall be released on bail by the Arresting Officer on **each** of them furnishing a personal bond for a sum of **Rs. 25,000/-** with one surety of Rs. 25,000/- to the satisfaction of the Arresting Officer. Applicants shall be released on bail on the following conditions:-
- i. they shall make themselves available for interrogation before the Police as and when required,
 - ii. they 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 from disclosing such fact to the Court or to the Investigating Officer,
 - iii. they shall not act in any manner which will be prejudicial to fair and expeditious trial, and
 - iv. they shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.
 - v. they shall strictly follow the COVID-19 protocol issued by the Central Government / State Government / Local Authority.
 - vi. they shall not involve themselves in any offence of similar nature in future.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicants involving themselves in similar offence in future.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant