

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 613 of 2021

- Komalsingh Mahanadiya, aged about 52 years, s/o Kunwarsingh Mahanadiya, Resident of village Khursitikul PS Chhuria, District- Rajnandgaon, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station-Gunderdehi, District- Balod, Chhattisgarh

---- Respondent

For Applicant	: Shri Tanmay Thomas, Advocate
For Respondent/State	: Shri BP Banjare, Dy GA

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

23.07.2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.377 of 2020 registered at Police Station Gunderdehi, District-Balod, Chhattisgarh for commission of offenses punishable under Sections 420 and 120(B) of IPC.
2. Case of the prosecution, in brief, is that, on 06.03.2020, a written complaint is lodged by Yogesh Kumar Sinha, Dinesh Kumar Ganjir and Rameshwar Sahu mentioning therein that co-accused Kumar Singh Thakur and Manharan Sahu have taken money from them for providing employment in Railway Department as Cleaning Staff. When after lapse of one year, they could not get the proposed employment, they demanded their money back, upon which on 21.06.2019, co-accused persons Kumar Singh Thakur and Manharan Sahu have executed an agreement on non-judicial stamp paper of

Rs.50/-, stating that they would return the money. Based on the written report, FIR was registered on 24.08.2020 against present applicant along with two co-accused persons.

3. Anticipatory bail application filed before the Court below was rejected by impugned order.

4. Shri Tanmay Thomas, learned counsel for the applicant would submit that applicant has been implicated falsely in the case. There is no involvement of applicant in any manner in cheating the complainant and obtaining money from them for providing employment in Railway Department. He submits that initially, a written complaint was lodged by Yogesh Kumar Sinha, Dinesh Kumar Ganjir and Rameshwar Sahu on 06.03.2020 making allegations that co-accused persons Kumar Singh Thakur and Manharan Sahu demanded money from them for providing employment and complainants paid money to them only. He further submits that when the complainants were not provided with job, then they asked their money back, upon which, co-accused persons gave an undertaking on stamp paper for return of money accepted by them. He further submits that two co-accused persons have already been enlarged on regular bail vide order dated 17.02.2021 in MCRC-7399 of 2020. In that order, there is an observation that co-accused persons have already returned the money back to the victims as mentioned in the Ikrarnama. He submits that as there is no direct allegation of accepting money from complainants, present applicant may be enlarged on bail.

5. On the other hand, Shri BP Banjare, learned counsel for the State opposing the submissions of learned counsel for the applicant, submits that based on written complaint, during the course of investigation, name of present applicant has been mentioned in the report prepared by the Police. On a specific query to learned State counsel as to whether there is any statement of victim with regard to payment of money to the applicant or memorandum statement showing the involvement of present applicant in instant crime, he submits that there is no such statement available in the case diary.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations in written complaint dated 06.03.2020, statement of victims wherein there is no mention of present applicant that applicant ever met the complainants along with co-accused persons, and they have ever paid any amount as alleged to be paid to other co-accused persons, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicant.

8. Accordingly, the application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question, he shall be released on anticipatory bail by the Officer arresting him on his executing a personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicant shall also abide by the following conditions:

- a) That the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- b) 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;
- c) That the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- d) That 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.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma