

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 5035 of 2021

- Abhishek Singh, S/o Sh. Dharendra Singh, Aged About 32 Years, R/o - 13 Sangeet Society, Near D Mart, Vasna Road, Vadodara, Racecourse, Vadodara, Gujarat – 390007. ---- **Applicant**

Versus

- State of Chhattisgarh, Through- Police Station Khamtarai, Tehsil and District- Raipur, Chhattisgarh. ---- **Non-Applicant**

For Applicant : Mr. B. Gopa Kumar and Mr. Nachiket Dave,
Advocates

For Non-Applicant/State : Dr. (Ms.) Veena Nair, Dy. A.G.

For Objector : Mr. Manoj Paranjape, Advocate

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

12.08.2021

Heard.

- 1) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 13.06.2021 in connection with Crime No. 329/2021 registered at Police Station- Khamtarai, District- Raipur (C.G.) for the offence punishable under Section 420 of IPC.
- 2) Case of the prosecution, in brief, is that the complainant Indarpal Singh lodged written report in the Police Station Khamtarai to the effect that he is working as Manager in H.R. Agency, Bhanpuri, Raipur. By the said agency around two crores of rupees has been deposited in the bank account of applicant's firm Manpasand Beverages Limited for supplying the goods, but in lieu thereof, the complainant received goods only worth Rs. 1,05,68,529/- and the remaining amount was not returned by the

applicant. The applicant was communicated regarding the return of the money, on which the applicant only gave assurance and did not return the money. Thereafter, report was lodged against him.

- 3) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question, he further submits that the complaint does not disclose any criminal offence at all much less any offence under Section 420 of IPC and it is purely civil dispute between the parties for which remedy lies before a civil court by filing a properly constituted suit. The complainant levelled only omnibus allegations against the applicant but no specific allegation has been made against the applicant with regard to the aforesaid offence. As per ledger submitted by both the parties, goods worth Rs. 2,23,22,336/- were supplied by the applicant's company Manpasand to the company of the complainant H.R. Agency. In fact, the dispute between the parties is regarding supply of goods, GST and the complainant has received goods more than the amount give by him. The dispute between the parties is purely of civil nature, however, just to give it a criminal colour, false and frivolous allegations have been levelled against the applicant. It is further submitted that wife of the applicant is suffering from breast cancer (stage-2) and would need to undergo chemotherapy/surgery. The applicant has no criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding, the applicant has been arrested on 13.06.2021 and due to COVID-19 trial is likely to take some time for its final disposal. Therefore, the applicant be released on bail by this Court.
- 4) On the other hand, learned counsel for the Non-Applicant/State opposes the bail application.
- 5) The counsel for the objector vehemently opposes the bail application filed by the applicant and submits that as per bank

statement of H.R. Agencies wherein the entry made on 14.06.2021 shows that Rs. 5 lakhs has been deposited in the bank account of the objector from the account of one Sushma D S and the said person is the mother of applicant in the instant matter. It is further submitted that as per Annexure-A Rs. 1,05,68,529/- is due and the said payment is legally recoverable as per the ledger of H.R. Agencies the said amount has been shown as debit balance. The detailed relevant portion of the ledger of HR agencies are mentioned from the period of 01.04.2018- 31.03.2020.

- 6) Heard learned counsel for the parties.
- 7) Having regard to the facts and circumstances of the case, the nature of allegation made against the present applicant, the applicant and the complainant were having business transactions since 2018, the dispute between them is with regard to supply of certain goods and GST as is seen from the ledger filed by them, as per ledger there is certain balance amount of Rs. 1,05,68,529/- which is said to be payable to the complainant for which there has been correspondence between the parties, the dispute between them appears to be of civil nature, considering the judgment of the Apex Court in **V.Y. Jose and Another Versus State of Gujrat and Another** reported in **(2009)3 Supreme Court Cases 78**, charge-sheet has already been filed, the detention period of the applicant, who is 32 years old and the fact that the applicant has no criminal antecedents, there is no likelihood of the applicant tampering with the prosecution evidence or absconding as admitted by both the counsels and due to COVID-19 conclusion of trial may take some time, without commenting anything on merits of the case, the application is allowed.
- 8) It is directed that in the event of the applicant executing a personal bond for a sum of Rs. 2,00,000/- with two sureties of Rs. 1,00,000/- each to the satisfaction of the concerned Trial

Court, he shall be released on bail, on 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 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.

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 offence in future.

Sd/-

(Gautam Chourdiya)
Judge

Nadim