

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 5721 of 2021**

Giriraj Sharmendra Maheshwari, S/o Sharmendra
 Roopkishore Maheshwari, Aged About 46 Years, R/o Bori
 Garhchirouli (Maharashtra).

---- Applicant**Versus**

State of Chhattisgarh Through District Magistrate, District -
 Durg (Chhattisgarh).

---- Non-applicant

For Applicant : Ms. Fouzia Mirza, Sr. Advocate with
 Mr. Sakib Ahmed, Advocate

For Non-applicant/State : Mr. D.P. Singh, Dy. A.G.

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****26.10.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 17.06.2021 in connection with Crime No.62 of 2021 registered at Police Station Purani Bhilai, District Durg (C.G.) for commission of offence punishable under Sections 420, 409 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that a written report was lodged on 22.02.2021 mentioning therein that applicant came in contact with complainant through mobile phone. Complainant and applicant have several talks on mobile and thereafter, applicant shown his intention to purchase 50 Ton TMT Bar Barbed Wire and Bindings Wire. Applicant projected himself to be wholesale businessmen of purchase and sale of iron cement, fan and

hardware articles, shown certificates of dealership to complainant and also handed over blank cheques of co-operative bank of Grhchirouli Branch. Complainant after satisfying has transported TMT Bars and Wires in two trucks, one on the address of Laxmi Traders Sirocha, District Garhchirouli and another on the name of Mahaveer Trading. The total cost of goods transported by complainant on the order of applicant was Rs.25,26,730/-. Applicant made part payment of Rs.12,30,785/-, but has not paid balance amount. When complainant made further repeated demand, he paid Rs.3,10,945/- on 24.12.2020, but has not paid rest of the amount. Based on the written report, aforementioned crime is registered against the applicant.

3. Ms. Fouzia Mirza, learned senior counsel for the applicant would submit that allegation of commission of offence has been falsely implicated against the applicant. The transaction between complainant and applicant is purely of commercial nature. Complainant has sold his goods through applicant in the name of Laxmi Traders Sirocha, District Garhchirouli and also in the name of Firm Mahaveer Trading owned by applicant. The part of amount which comes to about Rs.10 Lakhs is only remaining to be paid out of Rs.25,26,730/- to which also, applicant will pay, but due to pandemic period, amount could not be paid. Applicant is in jail since 17.06.2021. The offences alleged against the applicant is triable by Magistrate and its conclusion may take some time, hence, applicant may be enlarged on regular bail.

4. Per contra, Mr. D.P. Singh, Dy. Advocate General for the State opposing the submissions made by learned counsel for the applicant, would submit that applicant has projected himself to be owner of Firm Mahaveer Trading, but on visit to the place of address of Mahaveer Trading, complainant did not find any shop or godown on the said address and thereby applicant has cheated the complainant. He further submits that applicant is a habitual offender and four other crime of similar nature is registered against him at Maharashtra as appearing in the case diary, hence, he is not entitled for benefit of grant of bail.
5. At this stage, learned senior counsel for the applicant would submit that in the First Information Report itself registered on the basis of the written complainant, GST number in the name of Firm Mahaveer Trading is mentioned, hence, submission made by learned counsel for State cannot be treated to be correct at this stage. She further submits that criminal antecedent as stated by learned counsel for State is of the year 2008, 2012 and 2014.
6. I have heard learned counsel for the parties.
7. Taking into consideration the facts and circumstances of the case, nature of allegation levelled in the written complaint, part payment has been made by complainant, amount stated in the complaint to be recovered from the applicant is of the sale of goods to the applicant or through him and applicant is in jail since 17.06.2021, without commenting on the merits of the case, I am inclined to release the applicant on regular bail.

8. Accordingly, the application is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one local surety in the like sum to the satisfaction of the trial Court concerned on the conditions that;

a) He shall appear before the trial Court concerned regularly on each and every date unless exempted from appearance.

b) He shall not, in any manner, tamper with the prosecution witnesses.

c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge