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HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 962 of 2021**

Swati Mishra W/o Sheshmani Mishra @ Rudra Mishra, Aged About 40 Years, R/o S.M.I.G. - 34, Bajpai Castle, Minocha Colony Bilaspur, Police Station Civil Line Bilaspur, District Bilaspur Chhattisgarh (wrongly mentioned as S.M.I.34, in order).

---- Applicant**Versus**

State of Chhattisgarh Through Police Station New Rajendra Nagar (wrongly mentioned in order as Rajendra Nagar), District Raipur Chhattisgarh.

---- Non-applicant

For Applicant : Shri Pawan Shrivastava, Advocate

For Non-applicant/State : Shri B.P. Banjare, Dy. Govt. Advocate

(Proceedings through Video Conferencing)

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**18.08.2021**

1. The applicant has preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as she is apprehending her arrest in connection with Crime No.153 of 2021, registered at Police Station New Rajendra Nagar, District Raipur (C.G.), for offence punishable under Section 420/34 of Indian Penal Code.
2. Case of the prosecution in brief, is that, a written report was lodged on 17.07.2021 mentioning therein that complainant was engaged in 3D wall painting designing since about 10 years. Complainant along with her husband met with applicant and her husband in a hotel on the eve of New Year in the year 2019. On the meeting between complainant and her husband with applicant

and her husband, applicant's husband projected himself to be an officer of Women and Child Development Department, thereafter, talking terms developed, which converted into visiting terms between them and they have visited house of each others. Husband of applicant has stated them that he can provide them a contract, for which, initially he asked for an amount of Rs.15,615/- for registration and several other petty amounts, which were transferred by husband of complainant. Thereafter, applicant along with co-accused Rudra Mishra alias Sheshmani Mishra alias Suryakant Mishra, Anand Tiwari, Ritesh Sharma and Manoj Bhardwaj have collected Rs.15 Lacs from different transactions of payment made by complainant. The tender document was also forwarded, but it was later on found to be forged. Complainant realized that she was cheated. Based on the written complaint, First Information Report was registered against Rudra Mishra alias Sheshmani Mishra alias Suryakant Mishra, Swati Mishra (present applicant), Anand Tiwari, Ritesh Sharma and Manoj Bhardwaj.

3. Shri Pawan Shrivastava, learned counsel for the applicant would submit that false complaint has been filed against present applicant, she has not committed any offence as alleged against her. He further submits that there is no mention as to by what mode amount was transferred, no specific dates of transfer of money is mentioned nor it has been mentioned that for which work or tender, she has given the amount as alleged by complainant. It is contended that part of the complaint that

complainant and applicant were having visiting terms is not in dispute. When complainant and her husband were in need of money, husband of complainant has taken hand-loan of Rs.15 Lacs from husband of applicant, for which, he executed the agreement on 21.05.2020 in presence of two witnesses and agreement was also notarized. On the same day, another agreement was executed between complainant and applicant of handing over loan to complainant of Rs.17,00,700/- witnessed by two persons and agreement was notarized. As they were in need of money, they have also sold their four-wheeler i.e. Honda City Car, for which, vehicle's sale deed was executed by husband of complainant in favour of husband of applicant on 31.08.2020. This deed was also notarized. Subsequently, husband of complainant forcefully took over the four-wheeler from the possession of applicant's husband, for which, her husband has lodged report to concerned Police Station on 24.11.2020, but looking to the allegations made in the report, Police has drawn proceeding under Section 155 of the Cr.P.C. He pointed out that cheque issued for repayment of loan amount by complainant and her husband were dishonored, hence, separate complaint under Section 138 of the Negotiable Instruments Act, 1881 was filed by the applicant and her husband on 29.12.2020, which is pending consideration. Prior to filing of complaint against the present applicant, complainant herself has filed one more complaint against husband of applicant, wherein along with similar nature of allegations, allegation of outraging the modesty of complainant is also alleged. He submits that this complaint against the present

applicant is made only to overcome with the loan agreement and complaint case filed by the applicant and her husband under Section 138 of the Negotiable Instruments Act, 1881. It is further contended that perusal of contents of First Information Report would show that except the presence of applicant, along with co-accused in hotel, when allegedly co-accused projected himself to be an Officer of Women and Child Development Department, there is no allegation against her. All the allegations of asking the complainant to deposit the amount is against the co-accused. He submits that applicant is a lady, hence, she may be enlarged on anticipatory bail.

4. Per contra, Shri B.P. Banjare, learned Deputy Government Advocate representing the State opposing the submissions made by learned counsel for the applicant, would submit that present applicant in connivance with other co-accused persons have cheated the complainant and taken Rs.15 Lacs from her on false pretext, hence, applicant is not entitled for grant of anticipatory bail. He read over the contents of First Information Report in support of his contention.
5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegations, documents placed on record along with application for grant of anticipatory bail, complaint filed under Section 138 of the Negotiable Instruments Act, 1881 against complainant and her husband and contents of First Information

Report, without commenting anything into the merits of the case, I am inclined to release the present applicant on anticipatory bail.

7. Accordingly, bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on anticipatory bail on her furnishing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like sum to the satisfaction of the arresting officer and she shall be abide by the following conditions :-

(i) she shall make himself available for interrogation by a police officer as and when required;

(ii) she 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 her from disclosing such facts to the Court or to any police officer.

(iii) she shall not influence the witnesses during pendency of the trial.

Certified copy as per Rules.

Sd/-
(Parth Prateem Sahu)
Judge