

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6227 of 2021

1. Suresh Kumar Sinha S/o Late Shankar Lal, Aged About 39 Years, R/o Semariya, Vidhansabha, Raipur, District Raipur (C.G.).

---- Applicant

Versus

1. State Of Chhattisgarh, Through Station House Officer, Police Station Sihava, District Dhamtari (C.G.).

---- Non-Applicant

For Applicant : Mr. Puspendra Kumar Patel, Advocate.
For Non-Applicant/State : Mr. Shrestha Gupta, Panel Lawyer.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

27/09/2021

- 1) The applicant has preferred this First Bail Application under Section 439 of Code of Criminal Procedure, 1973 as he is in jail since 22/07/2021 in connection with Crime No. 106/2021 registered at Police Station Sihava, District Dhamtari (C.G.) for the offence punishable under Section 420/34 of Indian Penal Code.
- 2) As per the prosecution case, co-accused Dr. Vijay Sahu alongwith present applicant and co-accused Netram Thakur sold a machine namely Ozonizer of R.B.M. Company to the complainant/victim Krishna Nath for Rs. 7,000/- saying that this Machine purifies the air, water and vegetables and that its actual price is Rs. 80,000/- whereas at present being offered at Rs. 7,000/- only. It was further allured that if the complainant sells the said Machines to two persons, he would get Rs. 2,000/- deposited by the Company in his account for 24 months. Initially Rs. 2,000/- was deposited by the Company in the account of the complainant and thereafter he was asked to bring three customers for investing Rs. 5 Lakhs in the Company and on doing so, the complainant would get 10% of the

turnover of the Company i.e. Rs. 45,000/- to Rs. 50,000/- per month. On the allurement of the accused persons, the complainant deposited a total sum of Rs. 2,94,000/- on different dates, Shiv Shankar Sahu deposited Rs. 1,15,000/-, Ramadhin deposited Rs. 68,000/- & Rs. 42,000/-, Laxmi Netam deposited Rs. 1,20,000/- and Manjulata deposited Rs. 1,20,000/- i.e. total Rs. 7,80,000/- in the Company of the accused persons, however, subsequently the complainant and the victim realized that they have been fraudulently cheated by the accused persons and hence on report lodged to the above effect, the aforesaid offence has been registered against the accused persons.

- 3) Learned counsel for the applicant submits that the applicant has been falsely implicated in the crime in question. He submits that complainant Krishnanath Shiv Upasak, Shivshankar Sahu, Ramadhin Sahu, Laxmi Netam and Manjulata Som have filed a notarized affidavit dated 26/07/2021 in which it is mentioned that the applicant has returned their amount and the dispute between them has been amicably resolved and complainant/victims have no objection to release of the applicant on bail. He submits that applicant is in jail since 22/07/2021 and charge sheet has been filed. He further submits that there is no apprehension of the applicant tampering with the evidence or absconding and conclusion of trial is likely to take some time for its disposal. Therefore, the applicant be released on bail.
- 4) On the other hand, learned counsel for the respondent/State opposes the bail application. However, he submits that it is not disputed that compromise between the parties has been effected. He further submits that applicant has no criminal antecedents.
- 5) Heard learned counsel for the parties.
- 6) Considering the facts and circumstances of the case, the nature of allegation against the applicant, in particular the fact that compromise has taken place between the parties and amount has been returned, the detention period of the applicant who is 39 years

old, charge sheet has already been filed, offence is triable by Magistrate, the fact that the applicant has no criminal antecedents and there is no apprehension of the applicant tampering with the evidence or absconding as admitted by both the counsel and that conclusion of trial may take some time, the application is **allowed**. 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 the 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,
- 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 Govt./State Govt./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

Chandrakant