(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.981 of 2021

- Nageshwar Sahu, S/o Shri Puran Lal Sahu, aged about 32 years, R/o Dakpara, Kasdol, District Baloda Bazar (CG)

---- Applicant

Versus

- State of Chhattisgarh, through Police Station City Kotwali, Baloda Bazar, Tahsil & District Baloda Bazar (CG)

---- Non-applicant

For Applicant	:	Mr.Hemant Kumar Agrawal, Advocate
For Non-applicant	:	Mr. Vimlesh Bajpai, Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

23/8/2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to applicant as he apprehends his arrest in connection with Crime No.364/2021 registered at Police Station City Kotwali, Baloda Bazar District Baloda Bazar (CG) for commission of offence punishable under Sections 420, 467, 468, 470, 471, 120(B), 34 of IPC.

2. Case of the prosecution, in brief, is that on 24.1.2017 applicant submitted application for grant of loan with complainant Shriram Finance Company. After verification of facts mentioned in application form, loan of Rs.5 Lakhs was sanctioned to applicant. When applicant has not deposited the instalments of loan amount, Shri H.S. Tiwari, employee of finance company, visited site, he found that at the time of submission of application for grant of loan present applicant has shown some other shop i.e. sweets and plastic corner shop of Ramfal Sahu, whereas applicant is running shop of fancy and plastic items. On the report of H.S. Tiwari, Nikesh Kesharwani lodged complaint to the police station. Based on written report, instant crime is registered against applicant and other accused persons.

3. Mr. Hemant Kumar Agrawal, learned counsel for applicant would submit that false and frivolous allegations have been levelled in complaint against applicant. At the time of submission of application for sanction of loan in his favour, applicant has submitted relevant documents of his shop/ business. After submission of documents along with application form, the employee of finance company had visited site, verified the facts mentioned in application form and only thereafter loan was sanctioned in the name of applicant. However, due to some adverse circumstances, applicant could not be able to deposit instalments of loan amount, therefore, complainant finance company without his knowledge presented cheque of applicant with bank for clearance which got dishonoured due to adverse finance condition of applicant. After dishonour of cheque, the complainant had filed a complaint case under Section 138 of the Negotiable Instruments Act, 1881 before the Court of competent jurisdiction on 5.3.2019. Complaint is lodged against present applicant with intent to pressurize him for getting loan amount back. He further submits that anticipatory bail application of one Satish Sahu against whom also identical allegations have been levelled by complainant finance company, was allowed by this Court vide order dated 16.8.2021 in M.Cr.C. (A) No.876/2021. Hence, present applicant may also be enlarged on anticipatory bail.

4. Per contra, Mr. Vimlesh Bajpai, learned Government Advocate for the State opposes the submissions made by learned counsel for applicant and submits that at the time of submission of application form for grant of loan, present applicant has shown shop of his brother and on that basis employee of complainant finance company verified shop, loan application of applicant was processed and allowed. Applicant cheated complainant finance company by showing shop/property of some other person in place of his own shop/property. Hence, present applicant is not entitled to be

enlarged on anticipatory bail.

5. I have heard learned counsel for parties.
6. Taking into consideration the nature of allegations; the fact that applicant has submitted loan application form with complainant finance company for sanction of loan along with facts pleaded therein; the facts mentioned in application form were verified by employee of complainant finance company before sanction of loan; complainant has filed complaint case under Section 138 of the Negotiable Instruments Act, 1881 on 5.3.2019, whereas written complaint is lodged only on 3.7.2021, without commenting anything on merits, I am inclined to grant benefit of anticipatory bail to applicant.
7. Accordingly, this anticipatory bail application is allowed and it is directed that in the event of arrest of applicant in connection with 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/- with one surety in the like sum to the satisfaction of the Arresting Officer. Applicant shall also abide by following conditions:
   (i) that he shall make himself available for interrogation before Investigating Officer as and when required;
   (ii) that he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him/her from disclosing such facts to Court or to any police officer;
   (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
   (iv) that he shall appear before the trial Court on each & every date given to him by said Court till disposal of trial.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-