

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 6880 of 2020**

Naveen Choudhary S/o Late Nitai Choudhary, Aged about 35
Years, Occupation Cloth Merchant R/o Bangali Camp No.02
Bacheli Tah. & Distt. Dantewada C.G.

---- Applicant**Versus**

State of Chhattisgarh Through P.S. Kotwali, Jagdalpur Distt.
Bastar C.G.

---- Non-applicant

For Applicant : Shri Vikash Shrivastava, Advocate
For Non-applicant/State : Shri Siddharth Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

04.01.2021

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 27.08.2020 in connection with Crime No.396 of 2020 registered at Police Station Kotwali, District Bastar, Chhattisgarh for commission of offence punishable under Sections 420 and 120(B) of the Indian Penal Code.
2. Case of the prosecution, in brief, is that written complaint has been filed by Yasmin Ansari mentioning therein that present applicant along with Chandra Kiran Ongar, Sanjay Dayal and Narendra Choudhary have obtained Rs.9 Lacs fraudulently from her on the pretext of providing employment with NMDC. When

those persons could not provide employment, she asked for return of her money back, upon which, cheque of Naveen Choudhary was handed over to her and upon depositing it into her back account, it was dishonored mentioning that “insufficiency of fund”. The applicant along with other persons have cheated her. On the basis of written complaint, crime was registered initially against four persons and after completion of investigation, charge-sheet has been filed against the present applicant alone.

3. Shri Vikash Shrivastava, learned counsel for the applicant submits that applicant has not committed any offence and he has been made accused only on the basis of a cheque of his was handed over to the complainant Yasmin Ansari by Chandra Kiran Ongar. Referring to the statement recorded under Section 161 Cr.P.C. of Abdul Gaffar Ansari (husband of complainant) and Yasmin Ansari (complainant), he submits that from their statement, it is apparent that they went into the house of Chandra Kiran Ongar for getting the money returned and at that time, Chandra Kiran Ongar handed over the cheque amounting to Rs.9 Lacs to her. He submits that it is not the applicant who has issued the cheque, investigation has been completed against the present applicant, charge-sheet has also been filed and applicant is in jail since 27.08.2020, therefore, applicant may be granted benefit of the provisions of Section 439 of the Cr.P.C.
4. On the other hand, Shri Siddharth Dubey, learned State Counsel opposes the prayer for grant of bail and submits that complainant in the written complaint has very categorically made allegation

against the applicant and his involvement in aforementioned crime, cheque under signature of applicant was handed over to complainant which was dishonored, hence, present applicant is not entitled for benefit under Section 439 Cr.P.C.

5. I have heard learned counsel for the parties.
6. Taking into considering the facts and circumstances of the case, nature of allegation levelled against the present applicant and further taking into consideration the statement recorded under Section 161 Cr.P.C. of Abdul Gaffar Ansari (husband of complainant) and Yasmin Ansari (complainant), I am inclined to release the applicant on regular bail.
7. 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.10,000/- (Rupees Ten Thousand) with one 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