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HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 1112 of 2021**

- Rudra Mishra @ Sheshmani Mishra @ Surya Kant Mishra @ S.Mishra S/o shri G.P. Mishra, aged about 45 years, R/o S.MIG-34, Bajpai Castle, Minocha Colony Bilaspur, P.S. Civil Line, Bilaspur, District Bilaspur Chhattisgarh (the correct and only one name of applicant is Sheshmani Mishra)

-----Applicant**VERSUS**

- State of Chhattisgarh through: SHO, P.S. New Rajendra Nagar, Raipur District Raipur, Chhattisgarh

-----Non-applicant

For Applicant	: Mr. Pawan Shrivastava, Advocate.
For Non-applicant- State	: Mr. B.L. Sahu, Panel Lawyer

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER ON BOARD****15/09/2021**

1. Applicant has preferred this application under Section 438 of CrPC for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 153/2021 registered at Police Station New Rajendra Nagar, Raipur (C.G.) for the offence punishable under Section 420/34 of IPC.
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 his wife in a hotel on the eve of New Year in the year 2019. In meeting, applicant 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. 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 to complainant. Applicant along with co-accused Swati Mishra, Anand Tiwari and Ritesh Sharma have collected total Rs. 15,00,000/- on different dates from the complainant. They have also forwarded the tender documents but later on the said documents were found to be forged. When the complainant smell some foul play, she visited the office of Women and Child Welfare Department, at that time she came to know that applicant is not employee with the Department and thereafter report was lodged on 17.07.2021. Based on the written report FIR against applicant and four other persons has been lodged.

3. Mr. Pawan Shrivastava, learned counsel for the applicant would submit that false complaint has been lodged against the present applicant, his wife and three other persons who were witness to the documents executed of loan to the complainant and her husband and also of selling of the car of husband of complainant. He pointed out that false allegations have been levelled against applicant. There is no mention as to the date and quantum of the amount as stated to be paid by complainant. He submits that as per written complaint itself, the petty amount which has been transferred by her through online mode has been utilized for preparation of Gumasta licence of complainant's business which was also handed over to her. Allegations have been levelled only because complainant and her husband failed to repay the amount of Rs. 15 Lakh and Rs. 17 Lakh which they have taken from applicant and his wife on 21.05.2020.

The loan agreement was signed between the parties which is placed on record as Annexure A-2. When the husband of complainant finding it difficult to repay the loan amount has sold his car bearing registration no. CG10 S 2764 (Honda City) in favour of applicant but subsequently husband of complainant has forcefully taken the car from possession of applicant against which report was lodged to the concerned police station on 24.10.2020. Police has drawn proceedings under Section 155 of CrPC considering that there was some money dispute between the parties. When the complainant and her husband has not repaid the amount of loan, notice under Negotiable Instrument Act has been issued to the complainant and her husband and thereafter complaint case was lodged before the court of competent jurisdiction by applicant and his wife. Copies of legal notice and complaint case is placed on record as Annexure A-4. He submits that the complaint case is filed in the month of December 2020 much prior to filing of the written complaint against him. He further submits that co-accused Swati Mishra against whom similar allegations have been levelled has been enlarged on anticipatory bail in MCRCA No. 962/2021 on 18.08.2021. He further submits that making same allegations along with allegation of an attempt to outraging of modesty was made by complainant against applicant in the month of March 2021. After considering the submissions of learned counsel for applicant therein as well as the submissions of learned State counsel and counsel for the objector applicant was enlarged on anticipatory bail in CRA No. 646/2021 on 22.07.2021, hence, applicant may also be enlarged on anticipatory bail.

4. On the other hand, B.L. Sahu, learned State counsel opposes the submissions made by learned counsel for the applicant and submits

that applicant cheated the complainant and projected himself to be officer of Women and Child Welfare Department and stated her that he could provide contract work of painting to him in Balodabazar, Indore and Khandwa. Applicant also sent the tender document which was found to be forged. Complainant has transferred online money in the account of applicant which shows that there was relationship and transaction of money between the applicant and complainant. He submits that as per allegation applicant and others have taken Rs. 15,00,000/- from complainant and defrauded her, hence, applicant is not entitled for anticipatory bail.

5. I have heard learned counsel for the respective parties.
6. Taking into consideration, the nature of allegations levelled against applicant and other co-accused persons, documents placed along with application for grant of anticipatory bail, complaint filed under Section 138 of Negotiable Instrument Act against complainant and her husband before the Court of competent jurisdiction, without commenting anything on merits of the case, I am inclined to allow the bail application.
7. Accordingly, application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question (153/2021), 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 concerned arresting Officer. Applicant shall also abide by the following conditions:
 - (i) that the applicant shall make himself available for interrogation before the Investigation Officer as and when required;
 - (ii) that the applicant 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/her from disclosing such facts to the Court or to any police officer;

- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

Pawan