

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 1127 of 2021**

- Vinod Kumar Sharma S/o Gayatri Sharma aged about 49 Years R/o Simul, P. S. Kulti, District West Vardhman (W. B.), West Bengal.

-----Applicant**VERSUS**

- State of Chhattisgarh through: the Station House Officer, Police Station Civil Line, Civil and Revenue District Bilaspur Chhattisgarh

-----Non-applicant

For Applicant : Mr. Nitansh Kumar Jaiswal, Advocate
 For Non-applicant- State : Mr. Shrikant Kaushik, Panel Lawyer.

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER ON BOARD****30/09/2021**

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. 152/2021 registered at Police Station Civil Line, District Bilaspur (C.G.) for the offence punishable under Sections 420, 34 of IPC.
2. Case of the prosecution in brief, is that, complainant is having land admeasuring 6700 sqft at Minocha Colony, Bilapur. Ramesh Patel contacted him, projecting himself to be one of the Director of Tatvam Marketing and stated that upon cultivating mushroom on his field he would get higher profit. Cost of one bag of mushroom seed has been stated to be Rs. 45/- and also stated that he would also raise structure over his land. Complainant placed order of 11000 bags of mushroom costing of Rs. 4,95,000/- which the complainant deposited through RTGS in the account number 177005500424 but Ramesh

Patel and others have not supplied mushroom seed bags nor refunded his money, thereby, Ramesh Patel and others have cheated the complainant. Report was lodged based on which aforementioned crime is registered against Ramesh Patel, Rajesh Sharma and present applicant.

3. Mr. Nitansh Jaiswal, learned counsel for the applicant would submit that after registration of FIR on the report of complainant, Rajesh Sharma has returned Rs. 2,45,000/- to the complainant and for rest of the amount cheque was handed over to the complainant. In the proceedings of bail application filed by Rajesh Sharma, complainant himself appeared before the Court and admitted that there was settlement of dispute between parties and Rs. 2,45,000/- has been paid to him and for rest of amount cheque is issued to him which is appearing in the order dated 03.03.2021. He submits that in view of the submission made by complainant himself while appearing before the Court of Chief Judicial Magistrate (CJM), Bilaspur, co-accused was granted bail, hence, applicant may be enlarged on anticipatory bail.
4. On the other hand, Mr. Shrikant Kaushik, learned State counsel opposes the submissions made by learned counsel for the applicant and submits that in complaint, there is allegation of procuring Rs. 4,95,000/- from the complainant by false assurance of supply of mushroom bags which were not supplied, hence, applicant is not entitled for benefit under Section 438 of CrPC.
5. I have heard learned counsel for the respective parties.
6. Taking into consideration, nature of allegations, contents of order dated 03.03.2021 passed by learned Chief Judicial Magistrate,

Bilaspur wherein it is recorded that complainant Shyamlal Sukhija appeared before the Court and stated that there was settlement of dispute and he has received Rs. 2,45,000/- in cash and for rest of the amount cheque is handed over to him, 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 (152/2021), 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