

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 1133 of 2021**

- Rajesh Mishra S/o Dinbandhu Mishra aged about 43 Years R/o Behind Tendudipa Behind Railway Cabin Raigarh, P.S. City Kotwali, Raigarh Tahsil and District - Raigarh, Chhattisgarh.
- Rinku Mishra W/o Rajesh Mishra aged about 39 Years R/o Behind Tendudipa Behind Railway Cabin Raigarh, P.S.- City Kotwali, Raigarh Tahsil and District - Raigarh, Chhattisgarh.

-----Applicants**VERSUS**

- State of Chhattisgarh through: SHO Police Station Kotwali, District Raigarh, Chhattisgarh

-----Non-applicant

For Applicant : Mr. Awadh Tripathi, Advocate.
For Non-applicant- State : Mr. B.P. Banjare, Dy.Govt.Adv.

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER ON BOARD****17/09/2021**

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. 1144/2021 registered at Police Station Kotwali, District- Raigarh (C.G.) for the offence punishable under Sections 420 406 & 34 of IPC.
2. Case of the prosecution is, that complainant Ravish Gandhi has lodged report before the concerned police station 14.08.2021 stating therein that applicants along with their relatives Laxmeshwar Thakur, Uddav Thakur and Nikhil Thakur came his house and have stated that they have started one investment company and if he will invest amount in the company he will get a return @ 30% quarterly profit and if he wants to return the invested amount, it will be returned immediately. On the basis of assurance given by applicant along with other co-accused persons, complainant deposited Rs. 11,20,000/- after collecting money from different persons. When complainant demanded his money back with interest they have not returned the

same for one or the other reason. Later on they have issued two cheques on 26.12.2019 which were dishonored and thereafter complainant realized that he has been cheated and report was lodged to the concerned police station based on which crime against applicant and other three co-accused persons was registered.

3. Mr. Awadh Tripathi, learned counsel for the applicants would submit that the allegations in the complaint and FIR are absolutely false and baseless. Complainant has extended hand loan to Laxmeshwar of Rs. 11,20,000/-. For returning loan amount, co-accused Laxmeshwar given two cheques on 09.09.2019, when the cheques were deposited in the bank account of complainant for its clearance on 23.09.2019 they were dishonored against which complainant filed a complaint case under Section 138 of Negotiable Instrument Act read with Section 420 of IPC before the Court of competent jurisdiction on 03.02.2020. Copy of which is placed on record along with covering memo. He submits that in the complaint lodged under Section 138 of Negotiable Instrument Act complainant has mentioned that he has handed over the money as hand loan and not as investment with return @ 30% quarterly which is the subject matter of FIR. He submits that from the contents of complaint filed under Section 138 of Negotiable Instrument Act and also of FIR, it is apparent that the complainant has made false and frivolous allegations against applicants, hence, they may be enlarged on anticipatory bail.
4. On the other hand, Mr. B.P. Banjare, learned State counsel opposes the submissions made by learned counsel for the applicants and submits that in the FIR the allegations against applicants and other co-accused that they have approached complainant stating that they have opened investment company and assured that company will give return @ 30% and further whenever complainant will ask to return the money, it will be returned to them immediately. Complainant was not provided with the return of 30% as assured nor returned back the money, hence, complainant was cheated. There is involvement of applicants in commission of crime. However, the submission made by learned counsel for applicant with regard to complaint case filed under Section 138 of Negotiable Instrument Act and contents therein, he submits that he cannot dispute the facts mentioned therein as that is copy of certified copy issued by the copying section of Court at

Raigarh.

5. I have heard learned counsel for the respective parties.
6. Taking into consideration the nature of allegations levelled against the applicants, in FIR and also the contents of complaint case filed against Laxmeshwar Thakur on 02.02.2020 mentioning same dates of transaction stating therein that complainant has handed over the loan to Laxmeshwar Thakur, 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 applicants in connection with the crime in question (1144/2021), they shall be released on anticipatory bail by the Officer arresting them on their executing a personal bond in the sum of Rs. 25,000/- each with one surety in the like sum to the satisfaction of the concerned arresting Officer. Applicants shall also abide by the following conditions:
 - (i) that the applicants shall make themselves available for interrogation before the Investigation Officer as and when required;
 - (ii) that the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
 Judge