

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1188 of 2021**

Ashish Jalan S/o Shri Ashok Kumar Jalan, Aged About 26 Years, R/o Shrinagar Road, Macchi Talab, Raipur Chhattisgarh.

---- Applicant**Versus**

The State of Chhattisgarh Through Police Station Gudhiyari, Raipur, District Raipur Chhattisgarh.

---- Non-applicant

For Applicant : Shri Hemant Kumar Agrawal, Advocate
 For Non-applicant/State : Shri B.P. Banjare, Dy. Govt. Advocate
 For objector/complainant : Smt. Fouzia Mirza Senior Advocate with
 Shri Navin Shukla, Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****29.09.2021**

1. The applicant has preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No.204 of 2021, registered at Police Station Gudhiyari, Raipur District Raipur C.G., for offence punishable under Sections 418, 420, 34 of Indian Penal Code.
2. Case of the prosecution in brief, is that, applicant who is partner of Shree Sati Steels has purchased iron goods from complainant firm from 25.01.2021 up till 01.02.2021 total of which was valued at Rs.3,64,80,212/-. After accepting delivery of goods, cost of goods supplied to applicant has not been paid to complainant. It is further allegation that applicant has sold the goods purchased

from complainant firm on lesser cost to other buyers. After purchasing the goods and selling it on lower cost, applicant left the place of business and shifted somewhere else. This made the complainant to lodge written report on 17.05.2021, based upon which, First Information Report was registered against the applicant for offences mentioned above.

3. Shri Hemant Kumar Agrawal, learned counsel for the applicant would submit that allegations levelled against the applicant is absolutely false and baseless. He further submits that there was business transaction between applicant and complainant firm. Applicant has purchased iron goods from complainant firm, but not of the value as alleged against him. It is contended that documents placed along with application for objection i.e. tax invoice, chart of dates, bill number and truck number on which transported the goods is not signed by competent person. In tax invoice bill, there is no mention of date on which goods were transported, there was no delivery date neither buyers order numbers along with others nor customers seal and signatures who accepted the goods, which shows that allegation levelled against the applicant is false and frivolous. Learned Court below dismissed the application observing that applicant after purchasing of goods of Rs.3,64,80,212/- has not paid single penny to complainant, which is also not correct. Applicant has filed Annexure A/2, which is bank statement of Kotak Mahindra Bank showing online transfer of money on different dates, which is amounting to Rs.1,98,00,000/-, but complainant has not

mentioned anything with regard to receipt of payment from applicant. He lastly argued that applicant due to COVID-19 pandemic situation, could not able to recover the amount from his consumer and pay entire amount, there was no any criminal intent of applicant, but dispute, if any, of non-payment of balance amount of purchase of goods would be a dispute of civil nature, hence, present applicant may be enlarged on anticipatory bail.

4. Per contra, Shri B.P. Banjare, Dy. Govt. Advocate for the State and Smt. Fouzia Mirza learned Senior Advocate with Shri Navin Shukla, Advocate opposing the submissions made by learned counsel for the applicant, would submit that complainant in support of written report, deposited the details of supply of goods to applicant. He submits that even tax invoice has been sent online to applicant of goods sold to him. During the course of investigation, Police also recovered the documents showing that applicant after purchasing the goods from complainant firm has sold the same to other persons on lower than the rate purchased by him, which shows the intent of applicant of not making entire payment of goods. Ms. Fouzia Mirza, learned senior counsel further pointed out that documents filed along with objection clearly shows that complainant firm has sold the goods as mentioned therein to applicant. The goods were supplied on a particular date on a particular vehicle. The chart showing date of supply, bill number, truck number and quantity is also mentioned in Annexure O/2. Paper publication showing that applicant has left the place on account of suffering loss in business is apparent from

Annexure A/3, which has been published by father of applicant. Balance sheet also shows that there is outstanding against the applicant, hence applicant is not entitled for benefit under Section 438 of Cr.P.C.

5. I have heard learned counsel for the parties.
6. The allegation in written complaint and First Information Report is that applicant has purchased iron goods of Rs.3,64,80,212/- and had not made payment of goods. In the complaint, it is not mentioned that applicant has cheated in any manner by submitting wrong information or any forged documents with company, but company itself admitted that they are having business transactions since last two years with applicant. Applicant has placed on record statement of account of Shree Sati Steels, of which, applicant is partner showing transfer of amount online in the account of complainant firm.
7. Taking into consideration entire facts and circumstances of the case, nature of allegations, submissions made by learned counsel for the parties and documents placed on record, without commenting anything into the merits of the case, I am inclined to release the present applicant on anticipatory bail.
8. Accordingly, bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on anticipatory bail on his furnishing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like sum to the satisfaction

of the arresting officer and he shall be abide by the following conditions :-

- (i) he shall make himself available for interrogation by a police officer as and when required;
- (ii) he 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 from disclosing such facts to the Court or to any police officer.
- (iii) he shall not influence the witnesses during pendency of the trial.

Certified copy as per Rules.

Sd/-
(Parth Prateem Sahu)
Judge