

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7906 of 2020

Anil Singh Thakur S/o Late Uma Shankar Thakur Aged About 45 Years R/o First Battalion Bhilai, P.S. And Tahsil Bhilai, District Durg (Chhattisgarh), District : Durg, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Its Station House Officer, P.S. Kabirdham, District Kabirdham (Chhattisgarh), District : Kawardha (Kabirdham), Chhattisgarh

---- Respondent

For Applicant	:	Shri Sourabh Sharma, Advocate
For State	:	Shri Praveen Shrivastava, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

28/01/2021

Heard.

1. The applicant is arrested in connection with Crime No.238/2020 registered in Police Station- Kabirdham, District- Kabirdham (CG) for alleged commission of offence under Section 420 IPC.
2. Case of the prosecution, in brief, is that the applicant collected total amount of Rs.11,50,000/- from the complainant in the name of providing employment in the Armed Forces and in this manner cheated.
3. Learned counsel for the applicant would submit that the applicant is being falsely implicated by the complainant because in a transaction of loan, there was default in repayment by the applicant and the post dated cheques given by the applicant to the complainant were submitted in the bank for being honoured which were later on dishonoured. Learned counsel submits that

initially, the complainant filed four complaints under Section 138 of the Negotiable Instruments Act against the applicant alleging bounce of cheques and later on, FIR has been lodged on 5.6.2020 and the applicant has been arrested on 29.6.2020. Learned counsel for the applicant submits that total amount as stated in the complaint under Negotiable Instruments Act is Rs.10,65,000/- whereas in the FIR now lodged in the police station, the total amount is different and stated to be Rs.11,50,000/-. Learned counsel for the applicant submits that the investigation is complete, charge sheet has been filed and the applicant is a disabled person and in jail since 29.9.2020, therefore, at this stage, he may be granted bail as he is not likely to abscond or tamper with the prosecution witnesses.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that in view of statements made by the prosecution witnesses, a prima facie case of collection of Rs.11,50,000/- in the name of providing employment is made out. Learned State counsel further submits that even in the complaints under Section 138 of the Negotiable Instruments Act, the complainant had clearly stated regarding giving money to the applicant on the assurance that he would be providing employment, but, later on, the applicant gave cheques which were dishonoured. Therefore, the allegation of commission of offence under Section 420 IPC is also supported from the fact that cheques were given by the applicant were subsequently dishonoured.
5. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration that the incident is said to be of the year 2015 and no report was lodged and even after cheques were bounced, proceedings under Section 138 of the Negotiable Instruments Act were instituted against the applicant which was followed by lodging of FIR in the present case on 5.6.2020 and that there is discrepancy in the total amount as stated in the complaint and in the FIR and also taking into consideration that the investigation is complete, charge sheet has been filed and the applicant is said to be physically challenged person and there is nothing to show that he is likely to abscond or tamper with the prosecution witnesses, I am inclined to allow the application.
6. The application is accordingly allowed and it is directed that applicant shall be

released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the concerned trial Court with following further conditions:-

- (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (ii) 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/-
(Manindra Mohan Shrivastava)
Judge

Praveen