

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1194 of 2021**

Sittu Vaishnav @ Sita Ram Das Vaishnav S/o Shri Jagdish Das Vaishnav Aged About 41 Years R/o Behind Dr. Lalwani Dawakhana, Pahadipara, Gudiyari, Raipur, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh through the Incharge of Police Station Khamtarai, Raipur, District Raipur Chhattisgarh.

---- Non-applicant

For Applicant : Mr. Pallav Mishra, Advocate

For Non-applicant/State : Mr. Vaibhav Singh, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****01.10.2021**

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.379 of 2021, registered at Police Station Khamtarai, Raipur (C.G.), for offence punishable under Sections 420, 34 of Indian Penal Code.
2. Case of the prosecution in brief, is that, from 01.03.2019 to 27.06.2021, co-accused Kumkum Sahu and Purnima Sahu met with complainants Sarita Kurre, Nargis Sakre and others stating that they will provide gold on cheaper rate than that is prevailing in the market. They have stated that they will provide gold at the rate of Rs.28,000/- per 10 grams, upon which, Sarita Kurre and others agreed to purchase the gold. They have given some money to co-accused Kumkum Sahu and Purnima Sahu. After some time, co-accused Kumkum Sahu and Purnima Sahu again approached to

Sarita Kurre and stated that as their gold is mortgaged to Manappuram Finance and Muthoot Finance, which can be released only after repayment of entire loan amount and asked for more payment of amount. Relying upon statement of co-accused Kumkum Sahu and Purnima Sahu, complainants have given total sum of Rs.35,17,000/-. When after payment of huge amount, gold was not given to complainants, they have lodged report to concerned Police Station, based upon which, aforementioned crime is registered against five named accused persons and others. Applicant has been implicated in commission of crime based on the memorandum statements of Sunita Mahajan, Geeta Mahanand and Purnima Sahu.

3. Mr. Pallav Mishra, learned counsel for the applicant would submit that none of the complainant, named present applicant that he visited them and convinced for providing gold on cheaper rate and further accepted money from them. He further submits that allegation in the statement of Sarita Kurre is that when complainant Sarita Kurre visited the house of Purnima Sahu and Kumkum Sahu, present applicant was found present there, who abused her. He further pointed out that after investigation, charge-sheet has been filed and Sarita Kurre who has given more than Rs.22 Lacs to co-accused persons, entered into agreement and settled their dispute with co-accused. The agreement is part of charge-sheet. Other complainants also entered into an agreement i.e. Smt. Indu Singh and Nargis Sakre and settled their grievance with P. Anusuiya Rao. Smt. Purnima Sahu, Smt. Pratibha Mishra

and P. Anusuiya Rao and Mushtak Khan have been enlarged on regular bail in MCRC Nos.5924 of 2021, 6610 of 2021, 5946 of 2021 and 6855 of 2021, copy of order dated 14.09.2021 is placed on record as Annexure A/2. He lastly submits that as there is no allegation against the applicant of convincing the complainants for selling gold at cheaper price, nor there is allegation of payment of money to applicant, hence applicant may be enlarged on anticipatory bail.

4. Per contra, Mr. Vaibhav Singh, learned Panel Lawyer representing the State opposing the submissions made by learned counsel for the applicant, would submit that as many as seven persons were cheated by accused persons, huge amount of Rs.35,17,000/- have been collected by deceiving them on the ground that they will provide gold at the rate of Rs.28,000/- per 10 grams. He further submits that applicant was found present in the house of Kumkum Sahu and Purnima Sahu when Sarita Kurre visited the house of Kumkum Sahu. Along with others, applicant has also stated that he will not return back money and abused her, hence, he is not entitled for benefit under Section 438 of Cr.P.C.
5. However, he submits that in written report or in the statement of complainant, there is no allegation that applicant has approached along with co-accused persons and convinced them of providing gold in cheaper rate or any allegation that at any point of time, complainants have handed over any amount to applicant.
6. Learned counsel for the State submits that though the counsel for applicant has made submission that Sarita Kurre has also

executed some document of settling the dispute, but that is not part of case diary hence, he cannot make the submission in this regard.

7. I have heard learned counsel for the parties.
8. Taking into consideration entire facts and circumstances of the case, nature of allegations levelled against the applicant, further the fact that complainant has entered into agreement with some other co-accused persons, particularly, Sarita Kurre with Kumkum Sahu, who gave Rs.22,70,000/- to Kumkum Sahu as appearing in bail orders of co-accused persons, without commenting anything into the merits of the case, I am inclined to release the present applicant on anticipatory bail.
9. 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

Yogesh