

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR

MCRC No. 8260 of 2021

Shivaji Sarkar S/o Shri Dushashan Sarkar Aged About 30 Years
(Occupation Govt. Servant) R/o Village Dharamjayagarh Colony, Police
Station And Tahsil Dharamjaygarh, District Raigarh, Chhattisgarh,
District : Raigarh, Chhattisgarh

----Applicant

Versus

State Of Chhattisgarh Through The Station House Officer, Police Station
Pathalgaon, District Jashpur, Chhattisgarh, District : Jashpur,
Chhattisgarh

---- Respondent

For Applicant	:	Shri Shubham Dev Mallick, Advocate
For Non-applicant	:	Shri Amit Kumar Verma, Panel Lawyer
For Objector	:	Shri Anuroop Panda, Advocate

S.B.: Hon'ble Shri Parth Prateem Sahu, Judge

Order On Board

10/12/2021

1. Applicant has filed this application under Section 439 of Cr.P.C. for grant of regular bail as he has been arrested in connection with Crime No.73/2021 registered at Police Station- Pathalgaon, District- Jashpur (C.G.) for the offence punishable under Sections 420, 34 of IPC.
2. Case of prosecution is that applicant obtained loan from complainant in the year 2018 for running a poultry farm at village- Dharamjaigarh. After obtaining loan, poultry farm has been shown to the employee of complainant. Applicant paid installment up to

March 2020 to the tune of Rs.2,79,658/-. When further installment was not paid, the other officials visited to poultry farm as shown by applicant in the document of the company. They did not found poultry farm as stated by applicant. Therefore, a written report was lodged on 20.3.2021. Based upon written report, aforementioned crime was registered against applicant and he was arrested on 24.9.2021.

3. Shri Shubham Dev Mallick, learned counsel for the applicant would submit that at the time of processing for loan, complainant had mortgaged 2.33 hectares of land owned by applicant situated in village Dharamjaigarh having kh. no.346. Documents are well in possession of complainant. Applicant has started poultry farm but during Covid-19 pandemic period, due to bird flue attack over the poultry farm, all chickens died. At the time of opening of poultry farm, officials of the complainant also visited and inspected the poultry farm and had submitted report in the office of complainant. Applicant had deposited the installment continuously, out of Rs.5 lakhs of the loan amount, Rs.2,79,658/- have already been deposited. Complainant, only to pressurize and recovering loan amount at the earliest, has lodged false case against him. Under pressure, father of applicant has deposited lump-sum amount of Rs.1 lakh on 25.9.2021 i.e. second day of arrest of applicant but due to Covid-19 pandemic period, non-running of business in proper form, rest of the amount could not be paid. They have assured the complainant to refund the entire loan amount. He submits that applicant has not committed any alleged offence,

hence, he may be enlarged on bail.

4. Shri Amit Kumar Verma, learned counsel for the State as well as Shri Anuroop Panda, counsel for the complainant/objector opposes the submission of learned counsel for the applicant and would submit that the applicant in connivance with other official of the company have obtained loan and has shown the other poultry farm. Complainant has not started business of poultry farm as stated by him in his application form and obtained Rs.5 lakh. However, they do not dispute submission of learned counsel for the applicant with respect to payment of amount of Rs.2,79,658/- in the month of March 2020 and further payment of Rs.1 lakh by father of the applicant on 25.9.2021, but submitted that even after entering into a fresh agreement for repayment of the entire balance amount, applicant has not repaid the same. Hence, the applicant is not entitled to grant of bail.
5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegations, the fact that the land of applicant is still in mortgage with the complainant. Payment of amount as stated by counsel for applicant is admitted by counsel for objector, period of detention of applicant, without commenting anything on merits, I am inclined to allow the bail application.
7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail, upon his furnishing a bail bond in the sum of Rs.25,000/- with one surety in the like sum

to the satisfaction of the Court on the conditions that:-

- a) Applicant shall appear before the trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not, in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
Judge

Praveen