

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 59 of 2021

- Manoj Kumar Singh, S/o Late Nageshwar Singh, Aged About 56 Years Director Nampa Steel And Power (India) Pvt. Ltd. Address - Plot No. 100-101 Siltara Industrial Growth Center, Phase - II, Raipur (C.G.) P.S. Dharsiva, District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh, Through The, Police Station Dharsiva, District - Raipur Chhattisgarh.

---- Respondent

For Applicant	: Shri Abhishek Sinha, Shri Ankur Agrawal, Shri Sourabh Singh, Shri M.L. Saket Advocates
For Respondent/State	: Dr. (Ms.) Veena Nair, Dy.A.G.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

14.01.2021

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested on 12.12.2020 in connection with Crime No. 364/2020, at Police Station Dharsiva, District- Raipur (C.G.) for the offence punishable under Section 409 of I.P.C.
2. Case of the prosecution in brief is that the complainant Harsh Goyal, partner of M/s Krishna Udhyog, on 22.08.2020 sent 15.450 ton of iron steel costing 7.40 lakh to the applicant company for doing galvanization work on the said goods within three days. However, the applicant did not return the good and the advance amount of Rs. 1.50 lakh to the complainant which led to filing of FIR under Section 409 of IPC against the applicant on 09.09.2020 by the complainant.
3. In compliance of order dated 12.01.2021 of this Court the SHO

of concerned Police Station is present in person along with case diary.

4. Learned counsel for the applicant submits that the company of the applicant is doing work of galvanization of iron. The applicant and the complainant had many previous business transactions on certain terms and conditions for galvanization work on the iron bar steel transported by the complainant, the applicant has been successfully doing the work assigned to him by the complainant as is evident from the tax invoice filed herewith. However, some dispute arose between the complainant and the applicant regarding payment of GST and remaining job work of about Rs. 10 lakh. The complainant using his political approach and influence, lodged the FIR against the applicant and got him arrested on 12.12.2020. The police did not examine account books of the complainant before taking action against the applicant. Out of 76,910 KGs of iron provided by the present complainant to the applicant, he has returned 67,390 Kgs of iron to the complainant after doing the galvanization work and there was dispute regarding payment of tax only. But the police authorities without preparing the seizure memo, in front of employees of the applicant company seized 17 tons of raw iron bar. The dispute between the parties is purely of civil nature, the material was seized by the police from the applicant's company without taking signature of the concerned authorities. The applicant had also made complaint against the complainant herein to the senior police authorities but no action has been taken there on.
5. On the other hand, learned State counsel opposes the submission made by learned counsel for the applicant and supports the impugned order.
6. Considering the facts and circumstances of the case, looking to the seizure of 15.450 tons of iron from the company of the applicant without any verification by the police as is seen from the case diary, the fact that account books of the complainant were not examined by the police to ascertain the involvement of the applicant in the crime in question, the dispute between the parties appears to be of commercial nature, the age of the

applicant, the medical papers showing that applicant is suffering from heart ailment and using pacemaker, detention period of the applicant, he has no criminal antecedents, there is no likelihood of the applicant tampering with the evidence or absconding as admitted by both the counsel and the fact that conclusion of the trial is likely to take some time, without commenting anything on merits of the case, the application is allowed. It is directed that in the event of the applicant executing a personal bond for a sum of Rs.1,00,000/- with one surety of the like amount to the satisfaction of the concerned Trial Court, he shall be released on bail on following conditions:-

(a) 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 fact to the Court.

(b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(c) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

(d) he shall not involve himself in any offence of similar nature in future.

Sd/-

**(Gautam Chourdiya)
Judge**