



# HIGH COURT OF CHHATTISGARH, BILASPUR

## Order Sheet

### MCRCA No. 582 of 2023

1. Suresh Nihichalani S/o Late Idandas Nihichalani Aged About 42 Years R/o Block No. B-101, Impressia, New Rajendra Nagar, Raipur, District : Raipur, Chhattisgarh
2. Vijay Nihichalani S/o Late Idandas Nihichalani Aged About 40 Years R/o Block No. B-103, Impressia, New Rajendra Nagar, Raipur, District : Raipur, Chhattisgarh

---- Applicants.

### Versus

1. State Of Chhattisgarh Through Police Station New Rajendra Nagar, Raipur, District : Raipur, Chhattisgarh
2. M/s. Freshica Mutlitrade And Infra Pvt. Ltd. Raipur Through Its Share Holder Khushiram Kundnani, S/o Late Rochomal Kundnani, Aged About 50 Years, R/o M/s Freshica Mutlitrade And Infra Pvt. Ltd. Raipur, Shop No.30, Ground Floor, Magneto Mall, N.H.-6, Labhandi, Raipur, District : Raipur, Chhattisgarh

--- Respondents

(Cause Title Downloaded From Cis Periphery)

09.05.2023	<p>Mr. Manoj Paranjpe, Counsel for the applicants. Mr. Avinash K. Mishra, GA for the respondent/State. Heard on admission.</p> <p><b>Admit.</b></p> <p>Learned State counsel is directed to obtain previous criminal antecedents of the applicants.</p> <p>Also heard on IA No.1/2023 – Application for grant of ad-interim anticipatory bail.</p> <p>1. The main application under Section 438 Cr.P.C. has been filed by the accused/applicants for grant of anticipatory bail in connection with Criminal Complaint Case No.2470/2022 registered at Police Station New Rajendra Nagar, Raipur for the offence punishable under Sections 420, 409 read with Section 34 of IPC.</p> <p>2. Learned counsel for the applicants submits that complainant Khushiram Kundnani has already resigned from the post of Director of Freshica Multitrade &amp; Infra Private Limited (for short the “Company”) and details in this regard has been duly recorded in Form 32 of</p>
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Companies Act, 1956 and uploaded in its website. Learned counsel has also filed relevant documents in this regard today itself. He has also filed copy of details of Directors who presently running the Company and they are the present applicants. Therefore, complaint filed by the complainant on behalf of the Company is not tenable. He further submits that earlier police has closed the matter after obtaining opinion of District Prosecution Officer, Raipur on 25.01.2018 which has been addressed to Station House Officer, Police Station Telibandha, Raipur. Thereafter, concerned SHO had given Istgasha No.40/2018 under Section 155 Cr.P.C. to the complainant Khushiram Kundnani. However, the complainant has filed instant complaint case under Section 156 (3) Cr.P.C. and offence under Sections 420, 409 & 34 of IPC were registered against the applicants on 20.04.2022.

Learned counsel for the applicant has drawn attention of this Court towards agreement executed between the parties on 21.03.2015. He submits that allegation has been made that the said agreement has been obtained in a fraudulent manner and no settlement has been arrived between the parties however, true fact is that the parties have already entered into amicable settlement and certain payment have also been made in pursuance of the said agreement and after settlement, present applicants have started new business named as *Hardik Enterprises*. However, the earlier entity in the name of M/s. Freshica Mutlitrade And Infra Pvt. Ltd. is also running separately. Learned counsel has also drawn attention towards statement of another Shareholder/Director of the Company namely, Kishor Kundnani who has specifically submitted his resignation letter to the Board of Directors of the Company and accepted his termination from partnership in the Company. He also submits that dispute is purely civil nature. Therefore, the applicant may be granted ad-interim bail during the pendency of this petition.

3. Per contra, learned State counsel opposes the prayer for bail.
4. Having considered the aforesaid submissions and considering totality of the facts and circumstances of the case, purely as an interim measure, it is directed that the applicants shall not be arrested till the



	<p>next date of hearing, subject to the condition that they shall cooperate with the investigation and participate in the trial.</p> <p>List this case immediately after summer vacation.</p> <p>In the meanwhile, Issue notice to respondent No.2 on payment of PF as per rules.</p> <p style="text-align: right;">Sd/- <b>(Deepak Kumar Tiwari)</b> <b>Judge</b></p>
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*Ajay*

