



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1320 of 2021

Nikhil Agrawal S/o Shri Babulal Agrawal, Aged About 26 Years, R/o Behind Mahaveer Nager School, Gudhiyari Raipur, Tahsil and District - Raipur Chhattisgarh.

---- Applicant

Versus

The State of Chhattisgarh Through Police Station Gudhiyari, Tahsil and District Raipur Chhattisgarh.

---- Non-applicant

For Applicant : Shri Hemant Kumar Agrawal, Advocate

For Non-applicant/State : Shri Sameer Oraon, Govt. Advocate

For objector/complainant : Shri Akshay Uppal, Advocate

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

06.01.2022

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.204 of 2021, registered at Police Station Gudhiyaari, Tahsil & District Raipur C.G., for offence punishable under Sections 418, 420, 34 of Indian Penal Code.
2. Case of the prosecution in brief, is that, applicant who is partner of Shree Sati Steels has purchased iron goods from complainant firm from 25.01.2021 up till 01.02.2021 total of which was valued at Rs.3,64,80,212/-. After accepting delivery of goods, consideration of goods supplied to applicant was not paid to complainant. It is further allegation



that applicant's firm sold the goods purchased from complainant firm on lesser cost than the purchase price to other buyers. After purchasing the goods and selling it on lower cost, applicant left the place of business and shifted somewhere else. This made the complainant to lodge written report on 17.05.2021, based upon which, First Information Report was registered against the applicant for offences mentioned above.

3. Shri Hemant Kumar Agrawal, learned counsel for the applicant would submit that allegations levelled against the applicant is absolutely false and baseless. He further submits that there was business transaction between applicant and complainant firm. Applicant's firm purchased iron goods from complainant firm, but not of the value as alleged against him. It is contended that co-accused Ashish Jalan one of the partner was enlarged on bail vide order dated 29.09.2021 in MCRCA No.1188 of 2021 considering objection of complainant and documents placed along with memo of objection i.e. tax invoice, chart of dates, bill number and truck number on which transported the goods is not signed by competent person. In tax invoice bill, there is no mention of date on which goods were transported, there was no delivery date nor buyers order numbers along with others. Customers seal and signatures who accepted the goods is also not mentioned, which shows that allegation levelled against the applicant is false and frivolous. Learned Court below





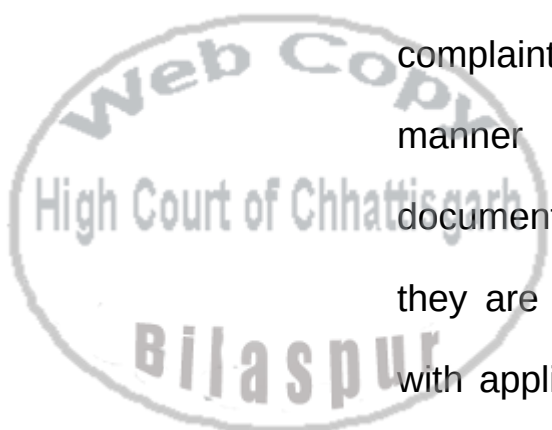
dismissed the application observing that applicant after purchasing of goods of Rs.3,64,80,212/- has not paid single penny to complainant, which is also not correct. Applicant has filed Annexure A/2, which is bank statement of Kotak Mahindra Bank showing online transfer of money on different dates, which is amounting to Rs.1,98,00,000/-, but complainant has not mentioned anything with regard to receipt of payment from applicant. He lastly argued that dispute, if any, of non-payment of balance amount of purchase of goods would be a dispute of civil nature. Case of applicant is on similar footing that of Ashish Jalan, hence, present applicant may also be enlarged on anticipatory bail.

4. Per contra, Shri Sameer Oraon, learned Govt. Advocate for the State and Shri Akshay Uppal, learned counsel for the objector/complainant opposing the submissions made by learned counsel for the applicant, would submit that complainant in support of written report, deposited the details of supply of goods to applicant. He submits that even tax invoices have been sent online to applicant of goods sold to him. During the course of investigation, Police also recovered the documents showing that applicant's firm after purchasing the goods from complainant firm, sold the same to other persons on lower than the purchase price, which shows the intent of applicant. It is submitted that Police during the course of investigation collected the documents showing supply of iron goods to applicant and co-accused and they



also seized the bulky paper of the Truck, on which, alleged goods have been transported. Learned counsel for the objector submits that in the balance sheet prepared and maintained by complainant, there is outstanding against the applicant and co-accuse, hence, applicant is not entitled for benefit under Section 438 of Cr.P.C.

5. I have heard learned counsel for the parties.
6. The allegation in written complaint and First Information Report is that applicant has purchased iron goods of Rs.3,64,80,212/- and had not made payment of goods. In the complaint, it is not mentioned that applicant cheated in any manner by submitting wrong information or any forged documents with company, but company itself admitted that they are having business transactions since last two years with applicant. Applicant has placed on record statement of account of Shree Sati Steels, of which, applicant is partner showing transfer of amount online in the account of complainant firm.
7. Taking into consideration entire facts and circumstances of the case, nature of allegations, submissions made by learned counsel for the parties and documents placed on record, applicant is one of the partner out of two, one Ashish Jalan was enlarged on anticipatory bail vide order dated 29.09.2021, counsel for State/non-applicant and objector could not able to point out any difference of allegation against





applicant, without commenting anything into the merits of the case, I am inclined to release the present applicant on anticipatory bail.

8. 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