

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3121 of 2022

- Gurjeet Singh S/o Shri Balwant Singh Aged About 35 Years R/o L.I.G. 270, Tatibandh, District- Raipur (C.G.)

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Station Amanaka, District- Raipur (C.G.)

---- Non-Applicant

MCRC No. 3453 of 2022

- Anil Rai S/o Raj Dayal Rai Aged About 38 Years R/o Plot No. 45/01, Umda Tola Supreme India Chawani, Bhilai, Durg District Durg Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Amanaka District Raipur, Chhattisgarh.

---- Non-Applicant

For Applicants : Shri BP Singh, Shri Aditya Bhardwaj & Shri Suresh Sharma, Advocate

For Non-Applicant : Shri BP Banjare, Deputy GA with Miss Shivali Dubey, Panel Lawyer.

For Objector : Shri Anjani Kumar Singh with Shri Akash Kundu, Advocates.

Hon'ble Shri Deepak Kumar Tiwari, J

Order On Board

20/06/2022 :

1. The aforesaid MCRCs are being disposed of by this common order as they arise out of Crime No.43/2022 registered in Police Station Amanaka, District Raipur for offence under Sections 420, 409, 34 the IPC.
2. Prosecution case is that complainant Vijay Kumar Jha, being the Director of the Nirav Metals Pvt. Ltd., has entered into an agreement with the applicant's company namely, Orbit Electromech India Pvt. Ltd. Applicant Anil Rai is one of the Directors of the said company. As per the negotiations, applicant Anil Rai was required to supply scrap material to the complainant and his one of the channel partners namely Nilesh Damani. As the goods were not reaching the destination, the complainant enquired from the transporter co-accused Gurjeet Singh. The said Gurjeet Singh in connivance with the main accused Anil Rai sent fake messages in Whatsapp that out of 14 trucks, 5 trucks were already on the way, but after considerable time, the said trucks did not reach the destination. Therefore, the aforesaid offence has been registered. During investigation, it has been revealed that the scrap materials to the tune of Rs.8 crores (approximately) have not been supplied to the complainant and his channel partner and thereby cheated the complainant.
3. Learned counsel for the applicants would submit that the applicants are innocent and have been falsely implicated. Learned counsel also would refer to the ledger account of the complainant's company which is also authenticated by SS Joshi & Associates, Mumbai, a Chartered

Accountant firm. Applicant Anil Rai also admits that he has received an advance to the tune of Rs.24,87,03283.72/- from the complainant's firm, as mentioned in the ledger of the said company and also duly seized during investigation and filed with the charge sheet. Learned counsel further submit that from 25th December, 2021 till 5th February, 2022, he has regularly supplied the scrap materials to the complainant, which has also been received as mentioned in their ledger, and only balance of Rs.3,35,08,958.91/- remains due towards the complainant. They fairly acknowledge, on the instructions of their client, that their clients are ready to return the said amount within 4 months. Learned counsel further submit that scrap materials are lying in their store and if the complainant is still willing to receive the scrap material of the said value, the said material would be despatched within one month. Learned counsel also submit that on account of lock-down situation due to Covid-19 pandemic, there is some delay due to which certain other traders have also lodged an FIR against the applicant in which the matter has already been settled and the amount was refunded. Learned counsel also submit that applicant Anil Rai has a longstanding business in scrap dealing and the complainant is his rival, and with ulterior motive the present complaint has been filed in order to finish his business, though the matter appears to be purely of breach of contract and civil in nature.

4. Upon being asked by the Court to learned counsel appearing on behalf of applicant Anil Rai, it is submitted that an amount of

Rs.15,65,72,367.8/- is due towards the complainant. On such score, learned counsel submits that accepting the ledger shown by the complainant in which Rs.3,35,08,958.91/- has been shown as due against the complainant, the applicant is ready to return the said amount or the scrap material of the said value. Learned counsel further submit that the applicants are in jail since 7.2.2022 & 12.2.2022 respectively, therefore, they may be released on bail.

5. On the other hand, learned State Counsel as also learned counsel for the Objector strongly oppose the bail applications. They submit that applicant Anil Rai is a habitual offender and to cultivate the malafide trust of the buyers of the steel, the applicant used to say that he is an authorized and registered vendor of the Steel Authority of India Limited.
6. Learned counsel for the Objector would submit that in the present case, applicant Anil Rai along with his accomplice namely, transporter Gurjeet Singh has issued forged Lorry receipts and claimed that the truck has been loaded so that they may extract full payment from the Objector. During the period, total goods of Rs.16,72,75,332/- were supplied and balance of goods to the tune of Rs.8,13,12,184.25/- is due against the applicant. Applicant Anil Rai has also manipulated and fabricated the GST portal. Another accused namely Sunil Rai, who is also one of the Directors, is still absconding. The applicant has cheated so many persons by following the same modus operandi.. The applicant also in a fraudulent manner created records on the GST website and

fabricated e-way bills and other documents. Therefore, the applicants do not deserve to be released on bail and the applications deserve to be rejected.

7. Having considered the submissions, nature of allegations, further considering the undertaking given by the applicants that they are ready and willing to return the amount of Rs.3,35,08,958.91/- within 4 months and if the complainant is interested to receive the scrap materials of the said value, then the scrap materials may be supplied to the complainant, on which learned counsel for the complainant, on instructions, would submit that he is not interested to receive the supply of scrap materials, and without further commenting anything on the merits of the case, this Court is inclined to grant bail to both the applicants with the following conditions:-

- Each of the applicant shall execute a personal bond for a sum of Rs.50,000/- with one surety for the like amount to the satisfaction of the trial Court.
- They shall appear before the trial Court on each and every date given by the said Court.
- The applicants shall jointly and severally return the amount of Rs.3,35,08,958.91/- within 4 months from the date of their release, out of which Rs.1.5 crores shall be deposited within 60 days from the release of the applicants.
- The applicants shall also furnish all details of movable and immovable properties in their names as well as their family, wife and dependent children.
- The applicants shall not alienate the immovable property without written permission of the concerned trial Court.

- If the bank accounts of the applicants are frozen, then the concerned trial Court, upon application of the applicants, may direct the concerned bank for unfreezing the applicants' account for payment to the complainant, as mentioned above.
- It is made clear that if the applicants fail to comply with any of the conditions, mentioned above, this order granting bail to the applicants shall automatically stand cancelled without further reference to the Bench.
- Consequently, both the Applications are allowed.

Sd/-
(Deepak Kumar Tiwari)
Judge