

THE HIGH COURT OF MADHYA PRADESH
MCRC-18511-2021
(MEHNDI HUSSAIN RIJWI Vs THE STATE OF MADHYA PRADESH)

Gwalior, Dated : 22/04/2021

Heard through video conferencing.

Shri Mukesh Sharma, learned counsel for applicant.

Shri I.S. Ashtana, learned Panel Lawyer for respondent/State.

I.A. No.11496/2021, an application filed under Section 301(2) for assisting the Public Prosecutor.

For the reason mentioned in the application, the same is allowed.

Shri Gaurav Soni, Advocate for the complainant is permitted to assist the Panel Lawyer during hearing of the matter.

Heard learned counsel for the parties.

The applicant has filed first bail application u/S.438, Cr.P.C. for grant of anticipatory bail. The applicant is apprehending his arrest in connection with Crime No.503/2020, registered by Police Station Morar, District Gwalior, in relation to the offences punishable under Section 420, 406, 467, 468 and 471 of IPC.

It is submitted that applicant has falsely been implicated in the present case and he has not committed any offence in any

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manner. There was a franchisee agreement between the complainant and the accused persons and in terms of the agreement the complainant has deposited certain amount i.e. Rs.1,38,90,346/-. It is further pointed out that some cheques were issued in favour of the complainant and after dishonored of the cheques, an FIR was got registered under the aforesaid sections. It is submitted that there is specific bar under Section 142 of N.I. Act that in cases of dishonor of the cheques, the private complaint is only remedy, no FIR should have been registered. The co-accused-Yatendra Shrivastava has already been extended the benefit of anticipatory bail by the trial Court vide order dated 23.09.2020 and the case of the applicant is identical to that of Yatendra Shrivastava, therefore, similar treatment be extended to him. He is ready to abide by all the terms and conditions as may be imposed by this Court. Upon these grounds, he prays for bail.

Learned P.L for the State as well as counsel for the complainant have vehemently opposed the application stating that there are specific allegations by sanding false e-mail ID and making false and fabricated documents in amount of

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Rs.1,38,90,346/-. The cheques which have been given to the complainant were also subsequently dishonored due to stop payment made by the present applicant. Investigation is pending in the matter and he is not cooperating in the investigation. It is submitted that co-accused has been granted bail as he was a director of the Company. It is submitted that another case registered at Crime No. 40/2019 against the present applicant, wherein the bail application was also rejected by the Hon'ble Supreme Court in SLP (Cri) No.5210/2019 vide order dated 18.10.2019 for offences under Sections 419, 420, 467, 468, 471, 504 and 506 of IPC.

Considering the overall facts and circumstances of the case, this Court does not deem it fit case to grant anticipatory bail at this stage, accordingly, the present bail application is hereby **dismissed.**

(Vishal Mishra)
JUDGE

LJ*