
(2014) 08 CHH CK 0029
In the Chhattisgarh High Court
Case No : M.Cr.C. No. 3346 of 2014

Anil Kumar Rawat

APPELLANT

Vs

State of C.G.

RESPONDENT

Date of Decision : 05-08-2014

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439
Penal Code, 1860 (IPC) — Section 420

Citation : (2014) 4 CGLJ 353

Hon'ble Judges : P. Sam Koshy, J

Bench : Single Bench

Advocate : Uttam Pandey, Advocate for the Appellant; O.P. Sahu, Govt. Advocate, Advocate for the Respondent

Judgement

P. Sam Koshy, J.

1. This is the first application filed under Section 439 of CrPC for grant of bail to the applicant-accused who has been arrested on 1.5.2014 in connection with Crime No. 439/2014 registered in Police Station Mahasamund, District Mahasamund, for the offence under Section 420 of IPC. As per the prosecution case, the applicant-accused is said to have been operating a tour and travel agency in the name of "Rawat Tour and Travels Pvt. Ltd." and that the applicant-accused, had invited the customers for visiting different tourist destinations as per the scheme floated by the travel agency, on account of which the complainant - Ramesh Kumar Sharma and his family had paid, an amount of Rs. 1,82,000/- in respect of the said tour to be conducted by the applicant-accused. However, since sufficient number of tourists could not be collected by the applicant-accused, the entire tour program itself was cancelled and it was agreed that the amount shall be paid back to the customers, however, the applicant-accused is said to have defaulted from making the payment and, therefore, the complainant has filed a complaint against the applicant-accused on the basis of which he has been arrested on 1.5.2014.

2. Learned counsel for the applicant submits that there was an agreement entered into between the complainant of initially paying 50% of the amount and then the balance 50% of the amount shall be paid within a period of four months, and that there was an oral agreement also in this regard in a mediation conducted at the instance of a lawyer.

3. In response to the said submission that 50% of the amount has been paid, the State was asked to verify that 50% amount has been deposited in the account of the complainant or not. In this regard, Shri O.P. Sahu, learned counsel for the State, submits that on due verification of the police authorities, he has got a report that Rs. 90,000/- i.e. 50% of the amount paid by the applicant-accused was deposited in the account of the complainant on 27.1.2014.

However, learned counsel for the applicant, at this juncture, submits that before expiry of four months" period itself, the complainant had filed a complaint and on the basis of which the present applicant-accused had got arrested and, therefore, he could not pay the balance 50% amount which the present applicant-accused shall be paying immediately after his on being released from the jail as he has to make arrangements for collection of funds to be refunded back.

4. Learned counsel for the State, however, opposes the bail application on the ground that the applicant has collected huge amount of money and cheated the tourists/customers and, therefore, he should not be released on bail.

5. However, taking into consideration the entire facts and circumstances of the case, particularly, the fact that the present applicant-accused had already paid 50% of the amount as early as in January, 2014 and he further undertakes of paying the balance of amount also and further keeping in view the fact that the applicant-accused is in judicial custody since 1.5.2014, I am of the view that it is a fit case where the applicant-accused can be released on bail. Accordingly, the application filed under Section 439 of CrPC is allowed. It is directed that in case if the applicant-accused furnishes a personal bond for a sum of Rs. 25,000/- with one surety of the like amount to the satisfaction of the concerned trial Court, then he shall be released on bail on the following further conditions:--

(i) that the applicant 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/her from disclosing such facts to the Court or to any police officer;

(ii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

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