

IN THE HIGH COURT OF MADHYA PRADESH

AT INDORE

BEFORE

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 10th OF NOVEMBER, 2022

MISC. CRIMINAL CASE No. 43920 of 2022

BETWEEN:-

**DIPESH SHARMA S/O RAMESH
CHANDRA SHARMA, AGED
ABOUT 25 YEARS,
OCCUPATION: BUSINESS, R/O
WARD NO. 24, H. NO. 77-B, JAI
SHREE NAGAR, DEWAS
(MADHYA PRADESH)**

.....APPLICANT

**(SHRI ASHUTOSH SHARMA, LEARNED COUNSEL FOR THE
APPLICANT)**

AND

**THE STATE OF MADHYA
PRADESH STATION HOUSE
OFFICER THROUGH POLICE
STATION S.T.F. DISTRICT
UJJAIN (MADHYA PRADESH)**

.....RESPONDENT

**(SHRI VIRAJJ GODHHA, LEARNED PL APPEARING ON BEHALF OF
ADVOCATE GENERAL)**

*This application coming on for hearing this day, the court
passed the following:*

O R D E R

This is the first bail application under Section 439 of the Code of Criminal Procedure, 1973 filed on behalf of the applicant for grant of bail. The applicant is in custody since 15/07/2022 in connection with Crime No.58/2021 registered at Police Station – S.T.F., District Ujjain (M.P.) for commission of offence punishable under Section 419, 420, 467, 468, 471 and 34 of the Indian Penal Code, 1860 read with Section 66-D of the Information Technology Act, 2000.

As per prosecution story, complainant Avinash Jain made a complaint that in the name of investment advice through SEBI registered Company namely Capital Federation Investment Advisory Company in share market co-accused Hemant Chouhan contacted him and by making the invoice of the same Company took an amount of Rs.4,10,000/-. Hemant Chouhan contacted him by impersonating himself as Hemant Jain and created a fake e-mail ID in the name of Capital Federation Investment Advisory Company and sent the invoice and link to the complainant and complainant through PayU Money deposited the same amount in the concerned account. Along with the co-accused Hemant Chouhan present applicant has also committed fraud and forgery with the complainant and grabbed his amount of Rs.4,10,000/-. Accordingly, offence has been registered against the applicant.

Learned counsel for the applicant submits that the applicant

is an innocent person and he has been falsely implicated in this offence. He is in custody since 15/07/2022. There is no material evidence available on record to establish the nexus between the alleged incident and the applicant. There is no personal gain to the applicant from the complainant. Nothing is going to be recovered or is required to be seized from the present applicant. He has no criminal antecedent. He is the permanent resident of Dewas district and is sole bread earner of his family. It is also contended that co-accused Ankita Yadav has been enlarged on bail by an order dated 20/10/2022 passed by the trial Court in the similar circumstances. It is also contended that the matter has been amicably settled between the applicant and the complaint and the complainant Avinash Jain pleaded no objection on an affidavit in respect of bail application of the present applicant. Final conclusion of the trial is also likely to take sufficient long time. Under the above circumstances, prayer for grant of bail may be considered on such terms and conditions, as this Court deems fit and proper.

Per contra, learned counsel for the respondent / State opposes the bail application and prays for its rejection.

Perused the impugned order of the trial Court as well as the case diary.

After considering all the facts and circumstances of the case, nature and gravity of offence, arguments advanced by the learned

counsel for the applicant and also taking note of the fact that allegedly the present applicant along with co-accused Hemant Chouhan fraudulently prepared fake invoice of Capital Federation Investment Advisory Company and an amount of Rs.4,10,000/- has been transferred from the account of the present applicant and co-accused Hemant Chouhan to the account of the co-accused Ankita Yadav. Other co-accused persons are still absconding in the matter.

In view of the *prima facie* evidence available on record against the applicant, without commenting upon the merits of the case, at this stage, this Court is not inclined to grant bail to the present applicant. Accordingly, the first bail application preferred under Section 439 of Cr.P.C. is hereby rejected.

Certified copy as per rules.

(ANIL VERMA)
J U D G E

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