

**(2018) 07 CHH CK 0355**

**Chhattisgarh High Court**

**Case No:** Miscellaneous Criminal Case (MCRC) No. 3593 Of 2018

Lakshmi Kant Tiwari

APPELLANT

Vs

State Of Chhattisgarh

RESPONDENT

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**Date of Decision:** July 30, 2018

**Acts Referred:**

- Indian Penal Code, 1860 - Section 34, 420
- Code Of Criminal Procedure, 1973 - Section 439

**Hon'ble Judges:** Sanjay K. Agrawal, J

**Bench:** Single Bench

**Advocate:** Vipin Tiwari, Gary Mukhopadhyay

**Final Decision:** Allowed

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**Judgement**

Sanjay K. Agrawal, J

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail

during trial in connection with Crime No.73/2012, registered at Police Station Supela, Distt. Durg, for the offence punishable under Section 420 read

with Section 34 of the IPC.

2. Case of the prosecution, in brief, is that main accused Baikunth Prasad Upadhyay got deposited ₹ 26,33,000/- from 2009-2011 and thereafter,

absconded which also includes the deposit of ₹ 8,95,000/- in the account of the present applicant.

3. Learned counsel for the applicant submits that the applicant has not committed any offence and he has been falsely implicated in the case. He

would further submit that ₹ 1,95,000/- has already been returned to the complainant's sister and the applicant has not even authorised the complainant to deposit any amount in the account of the applicant, it is Baikunth Prasad Upadhyay who got deposited the aforesaid amount in the account of the applicant. The applicant is in jail since 17-2-2018 and charge-sheet has been filed.

4. On the other hand, learned State counsel opposes the application and submits that money has been transferred in the account of the applicant and the applicant has misappropriated the said amount.

5. I have heard learned counsel for the parties and perused the case diary.

6. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, role of the applicant, pretrial detention of the applicant and charge-sheet has been filed, I am of the view that it is a fit case to enlarge the applicant on regular bail. Accordingly, the application is allowed.

7. It is, therefore, directed that the applicant be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed.