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NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRCA No. 300 of 2026

Sagar Sharma S/o Vinay Sharma Aged About 32 Years R/o House Number H-02, Sada Quarter, Neharu Nagar, East Bhilai, Thana Supela, Tahsil And Distt. Durg, Chhattisgarh. **... Applicants**

versus

1 - State Of Chhattisgarh Through Police Station Utai, Distt. Durg, Chhattisgarh.

2 - Prism College Of Pharmacy Mahkakhurd, Utai Ganiyari Road, Bhilai, Distt. Durg, Chhattisgarh, Through Smt. Seema Kashyap, Principal Prism College Of Pharmacy. **... Respondents**

For Applicant	:	Mr. Uttam Pandey along with Ms. Shruti Rai, Advocate.
For Non-applicant/State	:	Ms. Sameeksha Gupta, Panel Lawyer.

Hon'ble Mr. Ramesh Sinha, Chief Justice

Order on Board

24.02.2026

1. This first anticipatory bail application under Section 482 of the Bhartiya Nagarik Suraksha Sanhita, 2023 has been filed by the applicant, who have apprehending their arrest in connection with Crime No.



0015/2026 pending before the Court of JMFC, Durg (C.G.) for the offences punishable under Sections 316(2) & 3(5) of the BNS 2023.

2. According to the prosecution story, on a complaint filed by Respondent No. 2, the Judicial Magistrate First Class, Durg passed an order dated 01.10.2025 under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 directing registration of an FIR against the applicant and his wife, Smt. Gurdeep Sharma, under Sections 316 and 3(5) of the Bharatiya Nyaya Sanhita, 2023. Pursuant to the said order, Police Station Utai registered FIR No. 0015/2026 by reproducing the allegations contained in the complaint, wherein it is alleged that the applicant and his wife, working as Assistant Professors in the college of Respondent No. 2, collected tuition fees of Rs.20,000/- each from six students in cash during the academic session 2023 (July to December 2023) but neither deposited the amount in the institution's account nor issued receipts; it is further alleged that during the academic session 2024 they collected fees from six students and deposited the same in their personal accounts and in the account of the applicant's brother, Aman Kumar Sharma, through UPI transactions, which facts were later reported by the students to the college management; thereafter, the institution constituted an inquiry committee which, vide report dated 24.02.2025, found them guilty and directed deposit of the amount within three days, but upon failure to comply, a written complaint was lodged at P.S. Utai on 06.03.2025 and subsequently before the Superintendent of Police, Durg on 12.05.2025, though no action was taken until the Magistrate's order, and in the meantime the applicant and his wife deposited Rs.1,95,000/- with the institution.



3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in this case. He further submits that the applicant, the record of Complaint Case Filing No. 36066/2025 was inspected on 27.01.2026, wherefrom it revealed that an application under Section 175(3) of the Bharatiya Nagarik Suraksha Sanhita, 2023 was filed on 21.07.2025 and, on the same day, the statement of Respondent No. 2 was recorded under Section 223 of the said Code; thereafter, though the matter was fixed for arguments/orders, the learned Court below directed Police Station Utai to conduct an inquiry and submit a report by 07.08.2025, which itself demonstrates procedural impropriety inasmuch as once the Magistrate embarks upon an inquiry under the Code, he cannot simultaneously order police investigation, and thus the procedure adopted is unwarranted in law. Pursuant to the said direction, Police Station Utai conducted an inquiry and submitted its report dated 07.08.2025 clearly opining that the dispute appears to be of mutual financial transaction, does not disclose commission of any cognizable offence, and accordingly a copy of FAINA was supplied to the complainant advising him to seek remedy before the competent court; however, despite such categorical report, the learned Court below proceeded to direct registration of FIR under Sections 316 and 3(5) of the Bharatiya Nyaya Sanhita, 2023 and ordered further investigation. It is respectfully submitted that the proviso to Section 223 of the Bharatiya Nagarik Suraksha Sanhita, 2023 mandates that no cognizance shall be taken without affording the accused an opportunity of hearing, yet no such opportunity was granted to the applicant and, without hearing him, the learned Magistrate directed



registration of offence under Section 316 BNS while observing that ingredients of Section 318 BNS (cheating) were not made out, thereby rendering the entire proceedings procedurally defective. It is further submitted that Section 175(3) of the BNSS empowers the Magistrate to order investigation after considering the application and police submissions, but does not confer any authority to direct registration of an offence under a particular penal provision, especially when the police inquiry report itself states that no cognizable offence is made out; thus, the impugned direction amounts to encroachment upon the domain of police powers. It is further submitted that the inquiry report itself reveals that the dispute is essentially civil in nature arising out of mutual transactions; the amount of Rs.1,95,000/- was deposited in due course and not as a consequence of filing of the complaint, and the controversy pertains to commission fixed per admission of students for which certain mutual claims remain unresolved, in respect whereof the applicant and his wife have also submitted an application before the Superintendent of Police, Durg. It is pertinent that the co-accused, Smt. Gurmeet Sharma, has already been granted anticipatory bail by this Hon'ble Court in M.Cr.C. (A) No. 177/2026, and the case of the present applicant stands on identical footing; the applicant undertakes to abide by all conditions that may be imposed by this Hon'ble Court and, being a permanent resident of the address mentioned in the cause title, there is no likelihood of absconding or tampering with evidence, and therefore he is entitled to be extended the benefit of anticipatory bail.

4. On the other hand, learned State counsel opposed the anticipatory bail application of the applicant.



5. I have heard learned counsel for the parties and perused the case diary.
6. Considering the facts and circumstances of the case, the submissions advanced by learned counsel for the parties, the nature of the dispute, and the material available on record, and further taking into account that the similarly situated co-accused, namely Smt. Gurdeep Sharma, wife of the applicant, has already been granted anticipatory bail by this Hon'ble High Court in MCRCA No. 177 of 2026 vide order dated 06.02.2026, this Court is of the view that the present applicant is entitled to the benefit of parity. Accordingly, without expressing any opinion on the merits of the case, this Court deems it appropriate to grant anticipatory bail to the applicant.
7. Accordingly, the instant MCRCA is **allowed** and it is directed that in the event of arrest of the applicant – **Sagar Sharma**, on executing a personal bond and one local surety in the like sum to the satisfaction of the arresting Officer, he shall be released on bail on the following conditions:-
- (a) he 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 from disclosing such fact to the Court.
 - (b) he shall not act in any manner which will be prejudicial to fair and expeditious trial.
 - (c) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.



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(d) the applicant and the surety shall submit a copy of his adhaar card along with a coloured postcard full size photo having printed the adhaar number on it, which shall be verified by the trial Court.

(e) he shall not involve himself in any offence of similar nature in future.

Sd/-
(Ramesh Sinha)
CHIEF JUSTICE