

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 3586 of 2015**

- N. Tirkey, S/o. Late Shri Piyus Tirky, aged about 63 years, By Caste Oraon, Occupation – Retired Executive Engineer from Water Resources Department, Jashpur, At present residing in front of Circuit House, PWD, Tapkara Road, Kunkuri, P.S. Kunkuri, District Jashpur, Civil and Revenue District Jashpur (C.G.)

---- Applicant**Versus**

- State Of Chhattisgarh, through Station House Officer, Police Station City Kotwali, Jashpur, District Jashpur (C.G.)

---- Non-applicant

For Applicant: Mr. Awadh Tripathi, Advocate.
 For Respondent/State: Mr. R.K. Mishra, Dy. Advocate General.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****04/09/2015**

Heard.

(1) The accused/applicant has moved this Second bail application under Section 439 of the Code of Criminal Procedure for releasing him on regular bail during trial in connection with Crime No. 38/2013 registered at Police Station City Kotwali, Distt. Jashpur for the offences punishable under Sections 420 and 409/34 of the Indian Penal Code.

(2) The applicant's first bail application was dismissed as withdrawn by order of this Court dated 23.03.2015 passed in M.Cr.C. No. 7009/2014 with liberty to file fresh bail application.

(3) Case of the prosecution, in brief, is that applicant while holding the post of Executive Engineer from 12.12.2007 to 29.02.2012 along with other co-accused persons got the some work executed under the MANREGA scheme, in which, the applicant is alleged to have made excess payment of ₹ 11,35,813/- and thereby committed the aforesaid offences.

(4) Counsel for the applicant submits that applicant has already retired from service on 6.2.2012 and the work is completed thereafter i.e. on 29.02.2012 and, therefore, he is not responsible for the alleged misappropriation. He further submits that applicant was granted anticipatory bail by this Court on 10th April, 2013 passed in M.Cr.C. (A) No. 270/2013 for limited period and he has not misused the liberty granted to him, thereafter, he himself surrendered before the court below on 30.6.2015 and since then he is in jail; and most of the investigation has already been completed against the applicant. He further submits that charge sheet has already been filed and the other similarly situated co-accused are still absconding and if the bail is granted to him, he is not likely to be absconded as he is government servant and, therefore, the applicant may be released on bail.

(5) On the other hand, counsel for the State opposes the bail application.

(6) Taking into consideration the facts & circumstances of the case; further considering the facts the applicant is retired government servant; and earlier anticipatory bail was granted to the applicant for limited period and he has not misused the liberty granted to him; and the applicant is in jail since 30.6.2015; this court is of the view that it is a fit case to release the applicant on bail. Accordingly, the application is allowed.

(7) Accused/applicant is directed to be released on bail on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-