

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. (A) No. 1195 /2015

Parshuram Nayak, S/o. L.R. Nayak, Aged About 58 Years, (wrongly mentioned as 48 years), R/o. Sub Divisional Officer, Rural Engineering, Kunkuri, P.S. Kunkuri, Distt. Jashpur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, P.S. Kunkuri, Distt. Jashpur, Chhattisgarh.

---- Respondent

For Applicant : Mr. V.R.Tiwari, Advocate

For Respondent : Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

11/12/2015

1. Apprehending arrest in connection with Crime No.82/2015 registered at Police Station Kunkuri, District Jashpur (C.G.) for the offence punishable under Sections 420, 467, 468, 471, 409, 120-B of Indian Penal Code, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, in brief, on 22.05.2015 an FIR was lodged by C.E.O. Janpad Panchayat, Kunkuri, that the applicant alongwith other persons has withdrawn the government amount for the work which was not done or for the work which was not properly completed for which an enquiry was made and on enquiry, it was found that while in preparation of road fictitious name of labours were added and the muster-roll was prepared. Consequently, it was found that Rs. 9.09 Lakhs were sanctioned and on technical inspection, it was found that Rs.3,34,633/- was for the work though

was not done but was withdrawn; thereby the applicant alongwith others has misappropriated the amount.

3. Learned counsel for the applicant submits that the applicant was working as S.D.O. and he believed the documents which were placed before him by the sub-ordinate and the applicant was not required to verify the facts on the spot as it was not practically possible and only the documents which were placed before him by the sub-ordinate he has to believe the same. He further submits that in the technical enquiry, certain documents were not placed before the enquiry committee thereby how much work which was done as it was a soil work could not have been evaluated and even if the enquiry was required, it should have been made within 15 days of the work. He further submits that the works have been defined under MNREGA Act and the applicant have discharge his duties according to the guidelines issued. He further submits that in the enquiry which is Sikayat Jach Prativedan, the allegations have been attributed to Bajrang Gupta, Ravindra Kumar Yadav & Saroj Panna and therefore the applicant has not committed any misappropriation. It is further submitted that in the similar facts and circumstances, one C.P.Singhroul has been enlarged on bail in M.Cr.C.(A). No.586 of 2015, as the enquiry did not point out the role of C.P.Singhroul and the applicant being in the same footing, he is also entitled for bail.
4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail. It is submitted that there were two enquiries have been conducted and the first enquiry is referred to as technical enquiry wherein categorical finding has been recorded against the applicant Parshuram Nayak that he alongwith other persons namely Saroj Panna and Bajrang Gupta in connivance with the other officers have withdrawn the amount.

5. I have heard learned counsel for the parties and perused the case diary.
6. Perused the case diary and technical enquiry which is termed as “Takniki Jach Prativedan”. Both the enquiry i.e. “Sikayat Jach Prativedan” and “Takniki Jach Prativedan” were considered and it was found against this applicant that he should have physically verified the work done under the scheme of MNREGA and despite the fact the measurement register was not available but the note sheet was forwarded and it was certified that the work is done in the capacity of S.D.O. Consequently, he was primarily responsible to certify about the execution of work. Further, in view of finding of enquiry, I do not consider that the case of this applicant is that of similar to that of C.P.Singhroul, who have been granted bail by the co-ordinate Bench of this Court. Taking into such facts, case diary and enquiry report, *prima facie*, I am not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant, as perusal of case diary would indicate that it is not a case wherein it can be assumed that custodial interrogation may not be required. Consequently, I am not inclined to allow the application.
7. Accordingly, the anticipatory bail application is dismissed.

Sd/-
(Goutam Bhaduri)
Judge