

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 929 of 2015

S. K. Ranu S/o C.C. Ranu Aged About 55 Years R/o Luthra Colony, Behind Luthra Hospital, Nehru Nagar, Police Station - Civil Lines, Bilaspur, Tahsil, Civil & Revenue District - Bilaspur Chhattisgarh

---- Applicant

Versus

Central Bureau Of Investigation Through S.P. (C.B.I.) Qr. No. 4, Street 15, Sector-9, Bhilai, District Durg Chhattisgarh

---- Respondent

Shri B.P.Sharma and Ms. Naushina Ali, counsel for the applicant/s.

Shri Kishore Bhaduri, counsel for CBI.

C A V Order

06/10/2015

This application, for grant of anticipatory bail, has been filed by the applicant apprehending his arrest in connection with Crime No.R.C.07(A) / 2014 registered by CBI, Bhilai, Chhattisgarh for alleged commission of offences under Section 120-B, 420 and 409 of IPC and Section 13 (2) read with Section 13 (c) and (d) of Prevention of Corruption Act, 1988.

2. Prosecution case is that in the Aamgaon, Open Cast Mines operated by the South Eastern Coalfields Limited (SECL), a surprise check of Vigilance of SECL was conducted in the month of January, which revealed huge shortage of coal to the tune of 60976.86 tons i.e. 17.87 % which is much more than 5% of permissible limit of deviation. Thereafter, a joined surprise check was conducted by CBI, Anti Corruption Bureau, Bhilai from 06/08/14 to 09/08/14 in the Aamgaon, Open Cast Mines and shortage of coal to the tune of 31211.85 tons was found. This variation was again found to be 12.35% much more than permissible limit of deviation of 5%. The present applicant was posted as General Manager, SECL, Bishrampur area during the year 2013-14 with Shri R.B.Shukla and Shri Anand Kumar posted as Sub-Area Manager and Colliery

Manager respectively in the Aamgaon, Open Cast Mines which falls under Bishrampur area of SECL. The allegation against the present applicant and other co-accused is that the accused persons entered into a conspiracy of recording under production in which, for a long period, less recording of coal production was taking place, excavated coal was being pilfered with conspiracy of these officers with the Contractor – S.S.Chhatwal, Proprietor of M/s. S.S.Chhatwal with which SECL had an agreement for carrying over burden of Aamgaon, OCP. Though he had no authority for carrying coal from mines face to the stock yard, in conspiracy with these officers, he was involved in unauthorized carriage of coal. In this manner, by showing under production, huge quantity of coal, valued at more than 19 crores, were pilfered by the accused which was sold in the open market and the sale proceeds thereof were pocketed by all the accused.

3. Learned counsel for the applicant argued that firstly, measurement which was carried out initially itself was not based on proper weighment technique which resulted in measurement lesser than the coal stock. The Sub-Area Manager and Colliery Manager protested against such measurement and these protests were noticed by the applicant while signing the measurement and the matter was reported to the higher officers. Later on, on the asking of Manager, the applicant got carried re-measurement by proper computation method in which, shortage was found to be within permissible limit of coal shortage. It is submitted that the applicant is an officer of managerial capacity involved in coal management and had no role to play in any illegal pilferage and alleged theft of coal by a private contractor in conspiracy with Sub-Area Manager and Colliery Manager. It is further submitted that only because under the existing policy, the General Manager is also held vicariously responsible for any kind of shortage, mere shortage would not make out a prima facie case that the applicant, in any manner, involved in alleged conspiracy. He submits that the applicant sent a very detailed representation to the head quarter of SECL, time and again clarifying each and every aspect. Re-measurement had taken place only seeking approval of the higher authorities. It is also argued that even if it is assumed that the Sub-Area Manager, Colliery Manager and other accused had joined hands with Contractor – S.S.Chhatwal in pilferage of coal, there is nothing to

indicate that the applicant was also involved in the conspiracy though it may be another thing to show that the applicant failed to exercise control and supervision to detect such pilferage of coal. It is further argued that the applicant, at every occasion, has fairly cooperated with all kinds of queries made from him, information sought and records demanded, till he was holding charge of Manager of Bishrampur area. It is further submitted that the applicant divulged each and every information as and when asked from him by the CBI. As the entire investigation and alleged incriminating evidence is based only on records and documents which has already been seized by the CBI during investigation carried out so far, custodial interrogation of the applicant is not necessary. It is further submitted that the applicant is a Senior Managerial Officer of the SECL, therefore, he is not likely to abscond, nor in a position to hamper or impede fair and impartial investigation by CBI. His presence during investigation can be ensured by imposing appropriate conditions as the applicant is presently posted and working at another office of the SECL.

In support of his submission, learned counsel for the applicant relied upon judgment of the Supreme Court in the case of **Siddharam Satlingappa Mhetre v. State of Maharashtra and others, 2011 (1) SCC 694** and **Arnesh Kumar v. State of Bihar and another, (2014) 8 SCC 273**.

4. On the other hand, learned counsel appearing for CBI opposes bail application and submits that when a surprise check of vigilance was conducted in January, 2014, huge shortage of coal was found. Vigilance department, which carried a detailed investigation checked out not only huge shortage but the Vigilance report collected during investigation and various officials involved in investigation have stated that since long time, shortage / under production was being deliberately recorded to hide production of coal in the area and the private operator, Contractor who had a limited authority only of carrying over burden of coal of mines had joined hands with the applicant and other accused in which, huge quantity of coal during check period was pilfered from mines to stock yard and thereafter, removed therefrom in the open market and sold. This movement of coal was not being recorded, though actually, huge quantity was being removed. In this manner, more than 19 crores of coal was removed from the coal mines area, sold and sale proceeds were pocketed by all the

accused. It is not a case where the applicant only lacked proper supervision but the applicant acted deliberately with the Sub-Area Manager and Colliery Manager in supporting them, taking their protest on record, delay in sending shortage report to the head quarter, prima facie shows that the applicant was also involved. He further contends that when shortage was noticed by the Vigilance team, an attempt was made to cover up shortage by illegal mining in the mines during the period after the official check done by the Vigilance team in which, the Contractor was involved. The statements which so far have been recorded show that the applicant was closely connected and involved in this entire affair with the other co-accused, particularly, the Sub-Area Manager and Colliery Manager. The custodial interrogation of the applicant is necessary to find complete details of mining in which, conspiracy was hatched with all the accused including the Contractor to siphon away thousands of tons of coal from the mines in a well hatched conspiracy by showing under production of coal. In order to unearth the entire conspiracy, how coal was used, where it was sold and who pocketed the sale proceeds, it is necessary to take the applicant into custody.

5. Prima facie, the material so far has been collected by the CBI has exposed long standing criminal act of recording under production of coal and facilitating unauthorised movement of coal to outside the mining area. The quantity of coal which is alleged to have been pilfered in this alleged conspiracy is said to be valued more than Rs.19 crores.

The allegations against the applicant is that the applicant is one of the conspirator along with Sub-Area Manager and Colliery Manager and the Contractor. There are serious allegations that after Vigilance team carried out vigilance check in January, 2014, an attempt was made to cover up shortage of coal by undertaking illegal mining and getting coal removed from mines face to stock yard. The submission of report to the head office was delayed so as to facilitate cover up of shortage found by the Vigilance team in January, 2014. The under protest endorsement made by the Sub-Area Manager and Colliery Manager were readily supported by the Manager and even though head office did not specifically asked to carry out re-measurement, the applicant, in order to facilitate cover up, proceeded unauthorisedly and carried out re-measurement. During this period, it is alleged, unauthorised mining took

place, coal was removed by the Contractor, brought to stock yard and showing re-measurement to justify that measurement carried out earlier was not properly done. The statements which have been recorded by the prosecution so far allege various acts of omission and commission by the applicant. Submission of learned counsel for the respondent / CBI that in order to enable the investigating team to expose completely the conspiracy with the accused operating through which it was carried out with the involvement of the Contractor and other subordinates of the applicant and further that in order to find out how this huge quantity of coal has been utilized after being removed from the mining area to the open market and who has pocketed the sale proceeds, custodial interrogation of the applicant appears to be necessary.

6. Taking into consideration the seriousness of the allegation, material available on record so far collected by the CBI, severity of the allegations against the applicant, statement of various witnesses, alleged act of commission and omission by the applicant relating to alleged conspiracy, I am not inclined to grant anticipatory bail to the applicant.

The application is therefore rejected.

Sd/-

(Manindra Mohan Shrivastava)
Judge