

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C. (A) No. 1029 /2015

Prem Kishore Patel, S/o. Late Shri Devcharan Patel, Aged about 57 years,
R/o. Manikpur, Police Station Sariya, Tahsil Baramkela, Civil & Revenue
District Raigarh, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through: Police Station Sarangarh, District Raigarh,
Chhattisgarh.

---- Respondent

For Applicant : Mr. Manoj Paranjpe, Advocate

For Respondent : Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

28/10/2015

1. Apprehending arrest in connection with Crime No.21/2015 registered at Police Station- Sarangarh, District Raigarh (C.G.) for the offence punishable under Section 406, 409 read with Section 34 of the 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, a report was made on 15.01.2015 by the C.E.O. of Janpad Panchayat Sarangarh on the allegations that one Narendra Patel who is the Sarpanch of the Gram Panchayat alongwith the applicant and Secretary of the said Gram Panchayat namely Rohit Patel have committed an offence of misappropriation of government fund, as an amount of Rs.2,36,11,295/- was sanctioned for various works of construction under the head of minor mineral for Gram Panchayat Gudeli. The amount was deposited on 08.07.2013 and the Gram Panchayat has executed the development works in the year 2013-14 itself. The work executed by the Gram Panchayat through the Sarpanch and Secretary were verified and inspection was conducted in respect of 33 works. According to the inspection report, 33 works have been found to be executed, but the valuation of the said work was determined/valued to the tune of Rs.1,00,64,533/- and remaining amount has been alleged to have been misappropriated.

3. Learned counsel for the applicant submits that during the strike period of Secretary of the Gram Panchayat, the applicant was given a charge of the Secretary in between 07.09.2013 to 12.09.2013 for five days. Thereafter, the regular secretary came and the work of the Gram Panchayat was executed according to the resolution and 35 works was executed. Subsequently, when verified the valuation of work was found to be inflated not according to the sanction amount, therefore, on the excess valuation the report was made. Learned counsel further submits that the applicant was not at all in charge of the Secretary and he remained the charge of Secretary only for five days, therefore, no question of misappropriation or execution of the work of Secretary can be stated to have been done by the applicant. He submits that the charge sheet has been filed and considering the role played by the applicant, he may be enlarged on anticipatory bail.
4. Per contra, the learned State counsel opposes the prayer for grant of anticipatory bail and submits that the applicant was involved in misappropriation of fund.
5. I have heard learned counsel appearing for the parties and perused the documents on record.
6. Having regard to the fact that the applicant was in charge of Secretary only for five days and the fact that the Gram Panchayat has carried out the resolution in 2014 which was verified in 2014 and thereafter the misappropriation and other valuation was found and further considering the role played by this applicant, I am inclined to grant anticipatory bail to the applicant.
7. Accordingly, the anticipatory bail application is allowed.
8. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on furnishing a personal bond to a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :
 - (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
 - (ii) that the applicant 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/her from disclosing such facts to the Court or to any police officer;

- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall 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/-
(Goutam Bhaduri)
Judge

Ashok