

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A) No. 2 of 2016

1. Umesh Thakur, S/o. Ishwarram Thakur, aged about 49 years, R/o. Village-Baliyara, Police Station-Arjuni, Tahsil and District-Dhamtari (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, through : the Station House Officer, Police Station-Arjuni, Civil and Revenue District-Dhamtari (C.G.)

---- Respondent

For Applicant` : Mr. Kamal Kishore Patel, Advocate

For Respondent/State : Ms. Sunita Jain, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

26/02/2016

1. Apprehending arrest in connection with Crime No.330/2015 registered at Police Station- Arjuni, District – Dhamtari (C.G.), for offence punishable under Section 409, 120B of Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. Case of the prosecution, in brief, is that the applicant, who was working as Secretary at Gram Panchayat, Dodaki has embezzled an amount of Rs.13,98,620/- and the matter is being investigated.
3. Learned counsel for the applicant would submit that an application was made in Jandarshan to the Collector and thereafter, the matter was referred to Ombudsman and the Ombudsman has ordered for FIR against that an appeal was filed and the order of the Ombudsman was stayed, therefore, no offence is virtually made out against this

applicant since lodging the FIR originates from the reference to the Ombudsman. Therefore, the counsel prays that the applicant may be extended the benefit of anticipatory bail.

4. Per contra, the learned State counsel opposes the prayer for grant of bail.
5. Perusal of the case diary shows that FIR is lodged against the applicant, which is being investigated. The criminal case can not be judged on the order of the Ombudsman and it is clear that Ombudsman can refer a case for investigation. Here the FIR has been made, wherein the allegations have been made that during the execution of the work at Gram Panchayat, Dodki in MANREGA, certain illegalities have been committed, which includes the construction of pond, road, deepening of the pond etc. Subsequently, primary enquiry was conducted and on enquiry it was found that defalcation of Rs.13,98,620/- has been made, which was directed to be recovered from the Sarpanch and the Secretary, the present applicant. Taking into the primary report, the document, it can not be stated that custodial interrogation of the applicant may not be required and it is not a case, where the provisions of Section 438 of Cr.P.C. can be extended. Therefore, this Court is not inclined to grant anticipatory bail to the applicant.
6. Accordingly, the anticipatory bail application is dismissed.

Sd/-
(Goutam Bhaduri)
Judge