

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 370 /2016

Makhan Lal Sinha, S/o. Shri Ghasuram Sinha, Aged About 40 Years, R/o. Village- Parsada (Kh), Thana- Bheemkhoj, Tahsil & District Mahasamund Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, Police Station Mahasamund, District Mahasamund, Chhattisgarh

---- Respondent

For Applicant : Mr. S.S.Rajput, Advocate.

For Respondent : Mr. Sangharsh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

04/05/2016

1. Apprehending arrest in connection with Crime No.78/2016 registered at Police Station- Mahasamund (C.G.) for the offence punishable under Section 420/34 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, the applicant who is a President of Jan Sahara Social Welfare Society, Mahasamund, was appointed as NGO to execute the scheme of the Central Government for which the amount is being received. The work included mason training, distribution of tools, plastic bag manufacturing etc. according to the local needs of the people. It is the case that the said Society was given a work order for Rs.48,67,000/- in total for the period of 2009-10 financial year and for 2010-11 financial year and when some complaints were made, it was found that the Society has neither paid the honorarium nor has given the tools which were meant for distribution and the trainings were given for

less period of days and thereby on the forged bills, the amount was withdrawn. Subsequently, an enquiry was made and the applicant's Society was finally asked to pay Rs.16,82,000/-.

3. Learned counsel for the applicant would submit that initially the applicant's Society was issued with the work order dated 25.06.2010 and subsequently for the financial year 2010-11 another work order was issued which works out to Rs.48,67,000/-. It is stated that initially one notice was served on 09.07.2013 by the Chhattisgarh Khadi Tatha Gram Udyog Board whereby the applicant was asked to pay Rs.49,17,000/-. It is submitted that though the work order was for Rs.48,67,000/- but the Government agency they themselves did not know the actual amount of work order issued. It is further submitted that subsequently another notice was served on 28.11.2014 whereby the amount was reduced to Rs.16,82,000/-. The recovery of the amount has been made on the basis of the enquiry, however, during the enquiry neither the applicant was heard nor any opportunity was given and at the back of the applicant such enquiry was conducted. It is submitted that after performance of the job, cheques were given after due verification by the respective agencies. It is submitted that in order to recover Rs.16,82,000/- an FIR is made whereby the arm twisting method has been adopted by the State for recovery of the amount. He therefore submits that considering the nature of allegation, the applicant may be enlarged on anticipatory bail.
4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail and would submit that after the due enquiry, the recovery notice has been issued and during enquiry, it was found that certain forged bills were submitted despite the fact that some machineries were not distributed but bills were submitted and the

amounts were withdrawn, therefore, prima facie the matter has to be investigated and the applicant may not be enlarged on anticipatory bail.

5. Perused the case diary and the documents. The case diary contains statement of Digambar Pradhan wherein it is stated that the applicant along-with other NGO has not paid the honorarium and certain machineries were not delivered and the said statement has been made on the basis of the enquiry team which was made by the Collector and after physical verification and recording the statement such finding was arrived at. The case also contains few of the statement of beneficiaries. Considering the nature of the allegation and the documents, it is not a case where the benefit of Section 438 of Cr.P.C. can be granted to the applicant.
6. Accordingly, the bail application filed under Section 438 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge