

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 28 /2016

Ramayan Sahu, S/o. Shri Chakram Sahu, Aged About 46 Years, R/o. Village Khamhariya, P.S. Baradwar, Tahsil Jaijaipur, Civil & Revenue Distt. Janjgir Champa, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Acting through Officer In Charge, P.S. Baradwar, Distt. Janjgir Champa, Chhattisgarh

---- Respondent

For Applicant : Mr. K.A.Ansari, Sr. Advocate with Mr. Ramesh Nayak, Advocate.

For Respondent : Mr. Gary Mukhopadhyay, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

03/05/2016

1. Apprehending arrest in connection with Crime No.301/2014 registered at Police Station- Baradwar, District Janjgir-Champa (C.G.) for the offence punishable under Section 409, 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 was in-charge of Darrabhata Sewa Sahakari Samiti, Paddy Procurement Center, from 19.12.2012 up till the last paddy was procured. Thereafter, an inspection was made on 19.08.2013 whereby 10,873.73 quintal paddy was found missing, which was amounted to Rs.1,65,29,593.60. Thereby, the offence is committed and the applicant who is President was responsible for the procurement and sale of the paddy.

3. Mr. K.A.Ansari, learned senior counsel assisted by Mr. Ramesh Nayak, learned counsel would submit that the applicant was only in-charge as President of the Society from 01.01.2013 to 20.01.2013 i.e. only for 19 days and earlier to him one Dinesh Kumar Chandra was in-charge and the procurement and weighment of paddy cannot be attributed to the present applicant. It is stated further that from 15.11.2012 to 15.02.2013 the paddy was procured and only for 19 days the applicant was in-charge and before the applicant took charge, the entire procurement of paddy was made by the earlier President, therefore, no offence is committed by the present applicant and as such he may be enlarged on anticipatory bail.
4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail and would submit that from 19.12.2012 the applicant was in-charge as a President and when inspection was made for the procurement on 19.08.2013, it was found initially that 38,304 quintal of paddy was procured out of which 28,896 quintal was transported and 9407.64 was missing. Further, inspection revealed that 10,873 quintal paddy was missing, which amounted to Rs.1,65,29,593.60. It is submitted that the inspection was made up till the last date of procurement of paddy i.e. 15.02.2013, therefore, the offence has been committed.
5. Perused the documents filed along with the application as also the case diary. The case diary contains an enquiry report wherein it is stated that initially one Dinesh Kumar Chandra was a President of the Sewa Sahakari Samiti and up till 18.12.2012, thereafter from 19.12.2012 till the last date of purchase of paddy, the applicant was the President. Initially it was found that 9407.64 quintal of paddy was missing and the transaction pertains to the period of present applicant. Perusal of the record would show that different inspection

was carried out and on inspection which was made on 19.08.2013, on the physical verification of paddy quantity of 10,873.73 quintal was found missing, value of which was Rs.1,65,29,593.60. Therefore, considering the documents available on record, 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