

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 696 of 2016

Sandeep Agrawal, S/o. Shri Murarilal Agrawal, Aged About 43 Years,
Posted as Company Secretary, Headquarters Nagrik Aapurti Nigam,
Raipur, Chhattisgarh, R/o. House No.15, Phase-I, Harshvihar Colony,
Raipur, Police Station Mova, Raipur, District Raipur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, P.S. State
Economic Offences Wing/ Anti Corruption Bureau, Raipur, District Raipur,
Chhattisgarh

---- Respondent

For Applicant : Dr. N.K.Shukla, Senior Advocate with Mr. Shailendra
Shukla, Advocate.

For Respondent : Mr. Satish Gupta, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

CAV Order

01.07.2016

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.09/2015, registered at Police Station- ACB/EOW, Raipur, District Raipur (C.G.) for the offence punishable under Section 109, 120-B, 409 & 420 of Indian Penal Code read with Section 13(1)(d), 13(2) and 11 of Prevention of Corruption Act, 1988.
2. Case of the prosecution, in brief, is that on a raid being conducted in the office of Nagrik Aapurti Nigam by ACB, the applicant who was posted as Company Secretary and also Head In-charge of the Quality Control huge amount was recovered as the applicant alongwith other co-accused were found with possession of huge cash. The said recovery of amount was made in organized manner

and were received from the millers as undue gratification and also on the threat of cancellation of the milled rice. Further, it is stated that after the raid being conducted in the house of the applicant, huge recovery of ornaments and goods were came to fore around Rs.40 Lacs and the cash of around Rs. 6 to 7 Lacs approximately was also found from the house of the applicant.

3. Learned counsel for the applicant would submit that the applicant was working as a Company Secretary and the allegations that he was the In-charge as a Quality Controller is completely devoid of any merit as the work of the applicant was other than the quality control of the goods. It is further submitted that the quality control of the paddy were carried out at the different centers which are situated at State and only report was made available to the applicant. Therefore, there is no occasion for this applicant to interfere or influence and to manipulate the quality of the rice so as to receive an undue gratification. Learned counsel for the applicant further submits that the amount of cash can be justified from the documents as an agreement of sale was executed and the sale consideration was lying with the applicant and the cash was accounted for that which would be evident from the sale agreement filed along with the bail application. It is further submitted that the charge sheet has been filed and the trial may take some time and the applicant has been falsely implicated in this case, therefore, he may be enlarged on bail.
4. Per contra, learned State counsel opposes the prayer for grant of bail and would submit that the co-ordinate Bench of this Court has dismissed the bail application of the similarly placed co-accused Sudhir Kumar Bole, Satish Kumar Kaiwarth, Motilal Sahu, Dilip Kumar Sharma & Kaushal Kishore Yadu on 16.07.2015 and

subsequently this Court also has dismissed the similarly placed bail application of Devendra Singh Kushwah on 10.02.2016. It is submitted that all the accused in conspiracy with each other while discharging the duty of officer in Nagrik Aapurti Nigam accepted the sub-standard rice from the millers and also received the amount from the transporter in lieu of blackmailing the same on threat of refusal, further when the rice were being transported for deposit, the applicant and other co-accused accepted gratification per quintal and the amount were kept in the Head Quarter. It is further contended that the allegations are also that the applicant not only received the sub-standard rice but also sub-standard salts were purchased by the applicant in connivance with other accused. It is stated that the case of the present applicant is similar to that of the accused whose bail applications have been dismissed by this Court and the co-ordinate Bench of this Court. Therefore, grant of bail to this applicant would be against the dismissal order passed by this Court and prays for dismissal of the bail application.

5. Perused the case diary and the documents. Also perused the bail dismissal order passed by the co-ordinate Bench of this Court on 16.07.2015 and by this Court on 10.02.2016. The agreement of sale is also perused, which is a notarized agreement which can be easily prepared to justify the amount. The explanation by way of the agreement of sale, which is placed on record cannot be accepted as a conclusive fact as initially immediately after the raid and recovery, no such explanation was ever proved and even otherwise the notarized agreement could have been prepared subsequent as an afterthought. Considering the huge ornaments and the cash recovered from the possession of the applicant, prima facie, it cannot be stated that the applicant was in possession of explained amounts.

6. Their Lordship in case of ***Subramanian Swamy v. Central Bureau of Investigation***¹ has observed as under :

“Corruption is an enemy of nation and tracking down corrupt public servants and punishing such persons is a necessary mandate of the PC Act, 1988. It is difficult to justify the classification which has been made in Section 6-A because the goal of law in the PC Act, 1988 is to meet corruption cases with a very strong hand and all public servants are warned through such a legislative measure that corrupt public servants have to face very serious consequence.”

“Corruption is an enemy of nation and tracking down corrupt public servant, howsoever high he may be, and punishing such person is a necessary mandate under the PC Act, 1988. The status or position of public servant does not qualify such public servant from exemption from equal treatment. The decision making power does not segregate corruption officers into two classes as they are common crime-doers and have to be tracked down by the same process of inquiry and investigation.”

7. Reading the statement of Arvind Singh Dhruw, Akhilesh Kumar Shrivastava, Smt. Sandhya Thakur & Mohd. Gulab would show that even certain paddy were of the standard quality but they were resisted to be accepted unless and until money was being paid at different stages from the Quality Inspector to the Godown In-charge and even the Chowkidar. The witnesses who have deposed were few of the part of the organization and the supplier and the applicant is also the part of organization, therefore, this cannot be sidelined that the applicant would have a considerable hold over the witnesses, which may result the tampering of the evidence. The bail application of the similarly placed co-accused have been rejected by this Court and also the co-ordinate Bench of this Court

1 (2014) 8 SCC 682

and the allegations are like nature, therefore, consideration of bail of this applicant would amount to drawing a different line of two set of accused though the allegation against them are same. Considering the spirit of the order passed by their Lordship in case of *Subramanian Swamy* (supra) in the cases of corrupt public servants, this Court, at this stage, is not inclined to entertain the bail application.

8. In a result, the bail application filed by the applicant under Section 439 of Cr.P.C. is rejected.

Sd/-
(Goutam Bhaduri)
Judge