

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2041 of 2016

Shivshankar Bhatt, S/o. Sri Ram Manohar Bhatt, Aged About 60 Years,
R/o. Deen Dayal Upadhyay Nagar, Raipur, Police Station- D.D. Nagar
Raipur, Tahsil Raipur, Civil Revenue District Raipur, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station- Anti Corruption Bureau,
Raipur, District Raipur, Chhattisgarh

---- Respondent

For Applicant : Mr. Vijay Sundaram, Mr. Arvind Dwivedi, Mr. Ashok
Uniya & Mr. Mukesh Sharma, Advocates

For Respondent : Mr. Satish Gupta, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

CAV Order

24.06.2016

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- Anti Corruption Bureau, Raipur (C.G.) for the offence punishable under Section 11, 13(i)(d) and 13(2) of Prevention of Corruption Act, 1988 read-with Section 109, 120-B, 409 & 420 of Indian Penal Code.
2. Case of the prosecution, in brief, is that the applicant being working in the Nagrik Aapurti Nigam i.e. Civil Supplies and posted at Head Quarter, Raipur, as Manager and was In-charge of 27 Districts for supply of Public Distribution System had misappropriated the government paddy which was meant for Public Distribution System and in connivance with the other co-accused in an organized manner received the amount from the different miller and also on

the threat of cancellation of the milled rice received the amount from transporters. Further, it is stated that they collected the sub-standard broken rice and collected money from the transporters, on that account received the amount by arm twisting the millers. The said collected amount on different heads were accounted were being maintained separately which was seized. Thereby, the offence is committed.

3. Learned counsel for the applicant would submit that the charge sheet of 6000 pages in this case has been filed and as many as there are 213 witnesses and 427 documents. It is contended that there are 28 accused and 16 accused are in jail and two of them are IAS officer who are still at large. It is submitted that when the office of the applicant was raided, it is alleged that an amount of Rs.1,62,97,500/- was recovered which was tied up in the official files is complete false, as the money was not recovered from the possession of this applicant. Learned counsel referred to the case of Sanjay Chandra¹ and would submit that under the similar facts taking into the voluminous documents and delay, the Supreme Court had enlarged the accused on bail and the same proposition will apply in this case. He further submits that till date the charges have not been framed, therefore, the applicant 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

¹ (2012) 1 SCC 40

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 while the rice were being transported for deposit and accepted gratification per quintal. It is further contended that the allegations are 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. Prima facie, it appears that from the possession of the applicant and others huge cash amount of Rs.1,62,97,500/- was recovered from the office of the applicant, which were tied up in the files. The sources of the amount are unexplained.

6. Their Lordship in case of **Subramanian Swamy v. Central Bureau of Investigation**² 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. Subsequently, the part of amount so collected were sent to head office where the present applicant was working. 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 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