

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3606 of 2016

- J.P.Dwivedi S/o Agun Prasad Dwivedi Aged About 59 Years
Posted as District Manager, Balodabazar, Food Supply
Corporation, Balodabazar, R/o Ganga Nagar, Sector 2, Behind
Van Vikas Nigam Office, Mangla Road, Bilaspur, District
Bilaspur, Chhattisgarh. --- **Petitioner**

Versus

- State of Chhattisgarh through the Incharge, Anti Corruption
Bureau, Raipur, Chhattisgarh. --- **Respondent**

For the applicant	:	Mr. Goutam Khetrapal, Advocate
For the Respondent	:	Mr. Satish Gupta, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

25.07.2016

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 09 of 2015 registered at P.S. Anti Corruption Bureau, Raipur (C.G) for the offence punishable under Sections 109, 120-B, 420, 409 of IPC and Section 13(1)(d), 13(2) of the Prevention of Corruption Act.
2. As per the prosecution case, the applicant while working as District Manager, Food Supply Corporation, Balodabazar in conspiracy with others accepted substandard rice which was meant for public distribution from Millers through its collecting agency and in lieu thereof has received huge amounts from the millers from whom the supplies were collected and subsequently the amounts were being distributed to the higher officials and the relevant documents were seized.

3. Learned counsel for the applicant submits that only incriminating evidence facts against this applicant is based on receipts and the accounts which are said to have been maintained for the illegal gratification and distribution and according to the opinion of the expert, it has not been substantiated that the said hand writing is that of the applicant. He therefore submits that virtually no evidence is existing against the applicant, therefore, he may be enlarged on bail.
4. Per contra, learned State Counsel opposes the bail and would submit that the applicant and other accused are involved in corruption activities. He submits that the co-ordinate Bench of this Court has dismissed the bail application of similarly placed co-accused Ravinder Nath Singh has been rejected by this Court in M.Cr.C.No.2766 of 2016 on 24.06.2016. He referred to the documents and submits that the case of the present applicant is not different from that of other co-accused whose bail application has been rejected. It is further submitted that all the accused in conspiracy with each other while discharging the duty of officer in Nagrik Aapurti Nigam accepted the substandard rice from the millers and also received the amounts from the transporter in lieu of blackmailing the same on threat of refusal, further when the rice was being transported for deposit accepted gratification per quintal and further collected the amounts and sent it to the Head Quarter. It is further contended that the allegations are also that the applicant not only received the substandard rice but also sub-standard salts were purchased by the applicant in connivance with other accused. It is stated that the case of 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 application.

5. Perused the bail rejection orders passed by this Court in M.Cr.C.No.2766 of 2016. Prima facie it appears that from the possession of co-accused, huge amount of cash was recovered which remained unexplained. The applicant used to collect different sums which were being sent to Head office and the account was maintained for that, therefore, considering the documents which were recovered, *prima facie* it goes to show that certain accounts are stated to have been maintained by this applicant and as such the evidence is existing against him.
6. The Supreme Court in case of *Subramanian Swamy v. Central Bureau of Investigation (2014) 8 SCC 682* 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. Further reading of the statements of Arvind Singh Dhruw, Akhilesh Kumar Shrivastava, Smt. Sandhya Thakur & Mohd. Gulab would show that even certain paddy was 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 Incharge and even the Chowkidar. Some of the witnesses who have deposed were 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 applications of similarly placed co-accused have been rejected by this Court and also the co-ordinate Bench of this Court and the allegations levelled against the present applicant are like nature, therefore, consideration of bail of this applicant would amount to drawing a different line of two set of accused as the allegations against them are same. Considering the spirit of the order passed by Their Lordship of Supreme Court in case of Subramanian Swamy (Supra) which relates to corrupt public servants, this Court, is not inclined to entertain the bail application.
8. In the result, the bail application filed by the applicant u/s 439 of Cr.P.C., is rejected.

Sd/-
GOUTAM BHADURI
JUDGE