

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4875 of 2015

- Abhish Swami S/o Krishna Swami, Aged About 43 Years R/o B - F - 1 Archana Vihar, Nehru Nagar Road, Bilaspur, Permanent Resident Awas Yojana Colony Camp, P S Umaria, District- Umariya, (M. P.). Wrongly Mentioned As Chhattisgarh In Impugned Order.

---- Petitioner

Versus

- State Economic Offences Investigation Bureau , Raipur, District- Raipur, Chhattisgarh

---- Respondent

For Applicant	Mr. Kishore Bhaduri and Mr. Chandresh Shrivastava, Advocates
For Respondent /State	Mr. R.K Gupta, Dy. A.G.

Hon'ble Shri Justice Prashant Kumar Mishra
C A V Order

21 /1/2016

The applicant has been arrested on 05.04.2015 on the allegation of commission of offence under Sections 109, 420, 467, 468, 471, 120B of Indian Penal Code and Sections 13(1) (e), 13(2) of the Prevention of Corruption Act, 1988 under Crime No.05/2015 registered at ACB/EOW, Raipur (C.G.).

(2) Case of the prosecution, in short, is that one Alok Agarwal, the Executive Engineer, Water Resources Department (WRD), Government of Chhattisgarh, amassed huge wealth to the extent of more than Rs.30 crores by corrupt and illegal means. The present applicant is one of the co-accused along with the main accused Alok Agarwal. The allegation against the applicant is that he is the conspirator and abettor being the

recipient of the benefit having derived the same from Alok Agarwal by way of obtaining contract in the same department under Alok Agarwal.

(3) In the raid conducted by the prosecution in the premises of the applicant, he was found to be in possession of the fixed deposits and bank accounts in the name of wife of Alok Agarwal. He was also found to possess cash of Rs.35 lakhs. It is said that the applicant is the childhood friend of the main accused Alok Agarwal. He was working as Head Master, Umariya Madhya Pradesh from the year 1999-2011, however, he resigned from the service to be a contractor in the State of Chhattisgarh. He got himself registered as a Contractor in the WRD by submitting false experience certificate that he is engaged in constructions business since 2009, which was not possible, because till 2011, he was working as Headmaster. The applicant obtained registration in the name of Sagarshwar Construction, whereas, another concern was opened by co-accused Pawan Kumar Agarwal in the name of Mahamaya Construction. Both the construction firms were opened to channelize the ill-gotten money amassed by Alok Agarwal. From his bank locker, 1 kg golden ornaments and 5 kgs. silver ornaments have also been recovered. The diary recovered from the applicant's house carries entries in the name of Alok Agarwal and his wife and there was attempt to conceal evidence.

(4) The allegation against the main accused Alok Agarwal is of amassing total assets of Rs.49 crores., out of which, the unexplained assets is to the tune of Rs.31.23 crores.

(5) Shri Kishore Bhaduri, Advocate appearing with Shri Chandresh Shrivastava, learned counsel for the applicant, would submit that the applicant is in jail since 05.04.2015 and the charge sheet having already

been filed, the applicant is entitled for bail. Mr. Bhaduri would refer to the law laid down by the Supreme Court in **Akhilesh Yadav Vs. Vishwanath Chaturvedi and others, (2013) 2 SCC 1**, and **Sanjay Chandra Vs. Central Bureau of Investigation, (2012) 1 SCC 40**.

(6) Per contra, Mr. Gupta, Dy. A.G. appearing for the State would submit that similarly placed co-accused Pawan Kumar Agarwal has been denied bail by this Court in M.Cr.C. No.3421 of 2015. The SLP (Crl.) No.7048/2015 preferred by Pawan Kumar Agarwal has also been rejected by the Supreme Court by order dated 06.11.2015, therefore, the applicant is not entitled for bail.

(7) While rejecting the bail application of co-accused Pawan Kumar Agarwal, this Court has passed a detailed order in M.Cr.C. No.3421 of 2015, against which, SLP has also been dismissed by the Supreme Court. The case of the present applicant is more or less similar to the case of Pawan Kumar Agarwal. The allegations against the applicant is of serious nature and there are material available on record in the case diary evidencing his involvement as abettor or conspirator with Alok Agarwal to amass huge wealth. The applicant was an instrument used by Alok Agarwal to channelize the ill-gotten money. There are allegations that the applicant was trying to destroy incriminating evidence.

(8) Considering all the facts and circumstances of the case, this Court is not inclined to release the applicant on regular bail. Accordingly, the application i.e. M.Cr.C. No.4875 of 2015 is rejected.

Sd/-

Judge

(Prashant Kumar Mishra)

Gowri

