

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1088 of 2015**

- M. A. Iqbal S/o Late Shri M.A. Razzaq Aged About 62 Years R/o H. No. 8/162, Gandhi Chowk, Chhotapara, Raipur Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through The District Magistrate, Raipur Chhattisgarh
2. Indramani Patel S/o Shri Radhelal Patel Aged About 43 Years R/o Qtr. No. F-15, Electricity Board Colony, Gudhiyari, Raipur Chhattisgarh

---- Respondents

For Applicant	:	Shri Kishore Bhaduri, Advocate
For Respondent-State	:	Shri Shashank Thakur, GA for the State
For Respondent No.2	:	Shri JD Bajpai, ADvocate

Hon'ble Shri Justice Prashant Kumar Mishra**Order On Board****21/01/2016**

1. The applicant has preferred this bail application under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail as he is apprehending his arrest in connection with private complaint case No.1675/2015 lodged against him by respondent No.2, which is pending consideration before the JMFC, Raipur, registered at Police Station- Kotwali, Raipur, District Raipur for offence punishable under Sections 420, 408, 409, 467 & 471 IPC.
2. It is the allegation of the respondent No.2 that the applicant has committed criminal breach of trust by misappropriating the amount of contribution deposited by the members of the trade union, of which the applicant is the General Secretary. The embezzled amount is reported to the tune of

Rs.29000/-. After recording the statement of the witnesses, the Magistrate has twice dismissed the complaint for the reason that on the first occasion the complaint was not supported with relevant documents and on the second occasion the Magistrate having applied its mind did not find good ground to register the criminal complaint. It was only after the matter was remitted back by the Sessions Court vide its order dated 19-3-15 then the order issuing process has been issued against the applicant.

3. Shri Bhaduri, learned counsel for the applicant would submit that there is *inter se* dispute between two fractions of the trade union regarding control over the union, therefore, to settle personal score the second fraction has lodged the criminal complaint. He would submit that the applicant is a retired public servant and is more than 62 years of age. The offence being triable by the JMFC and there being no previous criminal antecedent, the applicant may be released on anticipatory bail.
4. Per contra, Shri Shashank Thakur, learned GA for the State and Shri Bajpai, learned counsel for respondent No.2 would object to the application. They would submit that the applicant has committed serious offence of misappropriation of amount collected from the members of the trade union, therefore, no leniency should be extended to him.
5. Having seen the papers and having regard to the nature of allegations; the age of the applicant; the fact that the offences are triable by the JMFC as also for the reason that on the earlier occasion the JMFC did not find any good ground to proceed in the matter and further that the custodial interrogation of the applicant may not be required, this Court is inclined to release the applicant on anticipatory bail.
6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant, he shall be released on anticipatory

bail on his executing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the arresting officer with the following conditions:-

- (i) He shall make himself available for interrogation by a police officer as and when required and shall co-operate with the trial pending before the JMFC, Raipur.
- (ii) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

Sd/-

J U D G E
Prashant Kumar Mishra

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