

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 518 /2016

Pratul Shriwastava, S/o. Late Ramkumar Shriwastawa, Aged About 57 Years, Occupation - Service (Draftsmen Presently Posted at Bhilai Nagar Nigam) R/o. Kaserpara Chakradharnagar Raigarh, Tah. & Distt. Raigarh, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : P.S. - City Kotwali Raigarh, Distt. - Raigarh, Chhattisgarh.

---- Respondent

For Applicant : Mr. Vineet Kumar Pandey, Advocate.
For Respondent : Mr. Anupam Dubey, Dy. Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

20/10/2016

1. Apprehending arrest in connection with Crime No.249/2016 registered at Police Station- City Kotwali, Raigarh (C.G.) for the offence punishable under Sections 420, 409/34 of Indian Penal Code and 13(1)(d) of Prevention of Corruption Act, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, a report was made that the applicant who was working as Draftsmen in the Municipal Corporation has measured certain shops which were earmarked for demolition for widening of the road and the applicant alongwith the Commissioner despite the fact that the allotment Committee was made has made the allotment to different beneficiaries/ shop-keepers who were not entitled to hold the shop.
3. Learned counsel for the applicant would submit that the applicant was only working as Draftsmen, he has not owned the shop nor

has recommended for any allotment and he has only measured the area and the shops which were earmarked for demolition so as to widen the road. He further submits that the applicant has not committed any offence, therefore, he may be given the benefit of anticipatory bail.

4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail and would submit that the applicant alongwith the Commissioner has allotted the shops, thereby the offence has been committed.
5. Perused the case diary and the documents. Perusal of the note sheet would show that the applicant alongwith the Commissioner and other persons allotted the shop by way of lottery system in the presence of one Suresh Goyal, the President and Jayant Thethwar, the Leader of opposition and all the affected shop-keepers and public were present alongwith the reporters of the paper wherein by lottery system the allotment was made, however, approval was not taken that of the Collector and the Committee. Considering the nature of the documents, it appears that while allotment was made, different persons were present and that too was made by adopting a lottery system. Taking into such documents, it appears that custodial interrogation in this case may not be required as all the documents are available on record. Therefore, in view of the principles laid down in case of ***Bhadresh Bipinbhai Seth v. State of Gujarat & Another***¹ and taking into the job discharged by the applicant who is Draftsman, I am of the view that it is a fit case where the benefit of Section 438 of Cr.P.C. can be extended to the applicant.
6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection

with the aforesaid offence, he shall be released on bail by the officer arresting him on furnishing a personal bond to a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Goutam Bhaduri)
Judge