

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 535 of 2016

1. Anil Vaidya, aged about 52 years, S/o. Late Shri S.N. Vaidya, Occupation – Service, Working as Fire Officer, Municipal Corporation, Raigarh, R/o. Bajirao Nagar, Police Station City Kotwali, Raigarh, Tehsil – Raigarh, Civil and Revenue District – Raigarh (C.G.)

----Applicant

Versus

1. State of Chhattisgarh, Through : District Magistrate, District Raigarh (C.G.)

---- Respondent

For Applicant	: Mr. R.S. Marhas, Advocate
For Respondent/State	: Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

16/09/2016

1. Apprehending arrest in connection with Crime No.247/2016 registered at Police Station- City Kotwali, Raigarh, District – Raigarh (C.G.), for offence punishable under Section 420, 409/34 of I.P.C. & Section 13 (1) (d) of Prevention of Corruption Act, the applicant has preferred this application for grant of anticipatory bail.
2. The case of the prosecution, in brief is that one of the co-accused Pramod Shukla, who was Chief Municipal Officer was discharging the job of Municipal Commissioner, Raigarh in the year 2014. Certain GS pipes purchase were ordered by the Municipal Commissioner for which a tender was invited. According to the tender, 2% commercial tax was to be deducted and 5% security

amount should have been deducted from the successful tenderer. The applicant working under the Commissioner in order to facilitate the tenderer has not deducted the said sums and thereby the aforesaid offence was committed.

3. Learned counsel for the applicant would submit that the applicant was working as Fire Officer under Municipal Commissioner, Raigarh and the deduction of 2% commercial tax was not within the domain of the present applicant. It is the official procedure for which even if deduction has not been made, separate forum is available under the Commercial Tax Act. It is further submitted that deduction of 5% security amount that too was not within the domain of the applicant and no criminality has been committed by the applicant and only false allegations have been attributed to the applicant. It is further submitted that similarly placed co-accused in this case has been enlarged on anticipatory bail by this Court vide order dated 19.08.2016 in M.Cr.C.(A) No.626/2016, therefore, the counsel prays that the applicant may also be extended the benefit of Section 438 of Cr.P.C.
4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail, however, he is not able to dispute the fact that similarly placed co-accused in this case has been enlarged on anticipatory bail.
5. I have heard learned counsel appearing for the parties.
6. Perusal of the enquiry report would show that primary allegations have been made against the applicant along with other co-accused have failed to deduct 2% commercial tax and 5% security deposit from the successful tenderer.

7. Taking into consideration all the facts and circumstances of the case, nature of allegations leveled against the applicant, considering the case diary and the documents and further on due consideration in facts of case the principles laid down in case of **Bhadresh Bipinbhal Seth Vs. State of Gujrat & Another**, reported in (2016) 1 SCC 152, would be applicable taking into the job discharged by the applicant under Commissioner, Municipal Corporation wherein it has been held that if not essentially required custodial interrogation should be avoided and further taking into the fact that similarly placed co-accused in this case has been enlarged on anticipatory bail by this Court vide order dated 19.08.2016, in M.Cr.C.(A) No.626/2016, I am of the considered opinion prima-facie that it is a fit case where the benefit of anticipatory can be extended to the applicant.
8. 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 executing a personal bond in 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.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge