

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 618 /2016

Pramod Shukla, S/o. Shri Hetram Shukla, Aged About 58 Years, R/o. Village Saliyapara, Post- Tahsil, Police Station- Pali, District Korba, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through S.H.O., Police Station- City Kotwali, Raigarh, District – Raigarh, Chhattisgarh.

---- Respondent

For Applicant : Mr. Sudeep Agrawal, 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, 120-B of Indian Penal Code and 13(2) & 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 by one Nohar Ram Sahu on 25.04.2016 that on 05.12.2014 the applicant who was working as Commissioner, Municipal Corporation, Raigarh, allotted certain shops overlooking the Committee, which was formed for the allotment to the persons whose shops were affected during the demolition drive of widening of the road. It is alleged that the applicant alongwith other co-workers of the Municipal Corporation have allotted the shops of their own without adhering to their own set-up wherein separate Committee was constituted for allotment. In respect of the said allotment, enquiry was made and on enquiry,

it was found that the applicant alongwith other officers committed the offence.

3. Learned counsel for the applicant would submit that the applicant was working as Commissioner and the said allotment of the shops were made on the urgent basis because they were under demolition drive for widening of the road and as such the writ petitions were also filed therefore the Commissioner within its authority constituted the Committee comprising of the President Suresh Goyal, Leader of opposition Jayant Thethwar and all the affected persons and media were present wherein by adopting the lottery procedure, the allotment was made. He further submits that no criminality can be attributed to the present applicant and since the payment of the shops were made according to the guidelines issued by the State Government and the entire amount was also paid, therefore, the applicant has been falsely inculpated and as such 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 despite the fact that the committee was constituted of Collector, Commissioner & Police, the applicant of his own has allotted the shops to 51 shopkeepers. He further submits that approval of the Committee was not taken, therefore, offence has been committed.
5. Perused the case diary and the documents. One order of co-ordinate Bench of this Court is also placed on record which prima facie shows that with respect to the allotment, different litigations took place by the allottees while the road was being widened. The enquiry report also initially affirms the fact that the allotment of the shops were made 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 Commissioner, Municipal Corporation, 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

Ashok