

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 825 of 2016

- Girish Kumar Mandavi S/o Hazar Singh Aged About 55 Years Occupation Service, R/o Kanhanpuri, P.S. & Tahsil Naharpur District Kanker Chhattisgarh, Civil & Rev. Distt. Uttar Bastar Kanker Chhattisgarh. --- **Applicant**

Versus

- State of Chhattisgarh through Police Station Surajpur District Surajpur Chhattisgarh. --- **Respondent**

For the applicants : Mr. A.K. Prasad, Advocate.
For the Respondent : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

21.09.2016

1. Apprehending arrest in connection with Crime No. 263/2015 of 2015 registered at Police Station Mahila Thana, Surajpur, Distt. Surajpur (C.G) for the offences punishable under sections 420, 467, 468, 471, 120-B of IPC and Sections 13(1)(d) and 12(2) of Prevention of Corruption Act the applicant has filed this application u/s 438 Cr.P.C.
2. As per the prosecution case, the applicant who was the Chief Executive Officer of Janpad Panchayat, Surajpur, in connivance with other members of the Recruitment Committee selected as many as 99 candidates for the post of Shiksha Karmi. It is alleged that though the persons who were selected were not possessing requisite qualification or valid documents yet they were given marks and eventually selections were made without any supporting documents.

3. Learned counsel for the applicant submits that the entire selections were made at the recommendation of the selection committee and the applicant has been inculpated on inculpatory statements of co-accused which is not admissible. It is also submitted that similarly placed co-accused Ramesh Kumar Sinha and Ram Vilas Sharma have been enlarged on anticipatory bail in M.Cr.C.(A) No. 1001 of 2015 and M.Cr.C(A). No.1056 of 2015, therefore, the present applicant may also be enlarged on anticipatory bail.
4. Perused the case diary documents. It is not in dispute that the applicant was working as C.E.O., of Janpad Panchayat, Surajpur and the recruitments were made to the post of Shiksha Karmis and the candidates who were not eligible have been selected as certain requisite documents were not annexed. A perusal of the orders dated 02.12.2015 passed in M.Cr.C(A).No.1001/2015 and 1056/2015 wherein the applicant has claimed parity would show that the cases of co-accused Ram Vilas Sharma in and Ramesh Kumar Sinha were considered primarily on the ground that they had filed a writ petition bearing No. WP(S) No.6564/2011 wherein the effect and operation of the FIR against co-accused was stayed and the said facts were not disputed by the State. Subsequently the FIR was registered. Earlier since the effect FIR was stayed on that ground anticipatory bail was granted to above two accused Ramesh Kumar Sinha and Ram Vilas Sharma. Admittedly the applicant was not a party to the W.P(S).No.6564/2011 and the bail another co-accused Satyanarayan Jaiswal who was not

party to W.P(S).No.6564/2015 has been rejected by this Court in M.Cr.C(A).No.750/2016 on 02.09.2016.

5. Considering the totality of facts and circumstances of the case, more particularly, the fact that the bail of accused Satyanarayan Jaiswal has been rejected in M.Cr.C(A).No.750/2016 as he had not filed W.P(S). No. 6564/2011, I am of the view that the applicant cannot claim parity at par with other co-accused Ram Kumar Sinha and Ram Vilas Sharma. Therefore, the present is not a case where the benefit of section 438 Cr.P.C., can be extended to this applicant. Accordingly, this bail application is rejected.

Sd/-

**GOUTAM BHADURI
JUDGE**