

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 938 of 2016**

1. B.P. Gupta, S/o. Lallan Sao, aged about 63 years, R/o. Devendra Nagar, Thana Civil Lines, Tehsil and District – Bilaspur (C.G.)

----Applicant**Versus**

1. State of Chhattisgarh, Through : Station House Officer, Police Station : Baghbehra, District – Mahasamund (C.G.)

---- Respondent

For Applicant	: Mr. Achyut Tiwari, Advocate
For Respondent/State	: Mr. Anil S. Pandey, Govt. Advocate
For Objector	: Mr. Gurudev I. Sharan, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order On Board****11/11/2016**

1. Apprehending arrest in connection with Crime No.212/2001 registered at Police Station- Baghbehra, District – Mahasamund (C.G.), for offence punishable under Section 217, 218, 120-B, 420, 467, 468, 471, 34 of Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. As per the prosecution case, one Ibrahim was having some property. He has four sons and he died on 02.12.1998. Thereafter, his sons filed an application for mutation of their names, wherein the applicant who was working as Naib Tahsildar after due process of law mutated the name. After the mutation, another application was filed by the wife of late Ibrahim namely Fatima Begum for mutation of her name, therefore, the applicant canceled the earlier order of mutation in favour of four sons and recorded the names of four sons and the wife in the revenue record. It is alleged that the

present applicant in connivance with the co-sharer have mutated and canceled the name of the sharer. Thereby committed the offence.

3. Learned counsel for the applicant would submit that the applicant had discharged his job as Naib Tahsildar and there is no *means rea* can be attached to the entire proceeding. He further submits that after the mutation was made in favour of the four sons after death of Ibrahim, when another application came for mutation, he bonafidely has recorded the name of five persons altogether by cancelling the earlier mutation in favour of four sons. He further submits that initially, FIR was lodged but the closure report was filed on 01.10.2010 and when it was rejected and sent back by JMFC, again closure report was made on 02.01.2015, therefore, no offence is made out. It is further submitted that the applicant stood retired, therefore, the counsel prays that the applicant may be extended the benefit of Section 438 of Cr.P.C.
4. Per contra, learned counsel for the State as well as counsel for the objector opposes the application for grant of anticipatory bail.
5. I have heard learned counsel for the parties.
6. Perused the case diary and the documents. Considering the nature of job discharged by the present applicant as Naib Tahsildar and the proceeding appears to be arising out of mutation proceeding. Taking into the totality and the role played by this applicant and the offence is alleged to be of the year 2001. Taking into the facts and circumstances of the case, this Court is inclined to extend the benefit of anticipatory bail to the applicant, as no custodial interrogation may be required in this case.

7. 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