

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6682 of 2016

- S. Babu S/o Late Sanku Sankaran Aged About 67 Years Post- Deputy Controller Drug Administration (Contractual) Chhattisgarh Raipur, R/o M.I.G. 387 Padmanabhpur, District- Durg, Chhattisgarh. Permanent R/o Kunju Viddu, Punnthalla, Kolam- 16, Kerala.

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station Anti Corruption Bureau Raipur, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant : Dr. N.K. Shukla, Sr. Advocate with
Mr. Kasif Shakeel, Advocate.

For Respondent/State : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

09-12-2016

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 3-10-2016 in connection with Crime No. 22 of 2011, registered at Police Station Anti Corruption Bureau Raipur, District Raipur (CG) for the offence punishable under Sections 13(1)(e) read with Section 13 (2) of the Prevention of Corruption Act, 1988.
2. Case of the prosecution, in brief, is that the applicant was working as Deputy Controller, Drugs, he retired from services on 31-5-2009 and again he was appointed on contract basis. On 19-4-2011 a raid was conducted in the house of the applicant and it was found that disproportionate properties have been acquired by the applicant, total income was assessed to Rs. 44,73,572/- whereas expenditure was

found to be Rs.1,75,74,532/- and thereby disproportionate property was valued at Rs.1,31,00,962/- and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that during the course of raid, property of the niece of the applicant namely P. Pinky was also taken into account as next door neighbour. As per Section 2 (c) (iii) of the Chhattisgarh Civil Services (Conduct) Rules, 1965, (for short, "the Rules 1965"), niece cannot be taken into account for the purpose of family member. It is further submitted that the properties which were purchased were informed to the employer and when they were sold out to Rs.85 lakhs it was not informed, therefore, it will come within the ambit of proviso to Rule 19(2) of the Rules 1965 as it only restricts such transaction which took place with a person having official dealing. It is further submitted that the property of the wife of the applicant is also excluded in such case, therefore, it will not come within the ambit of the corruption as it is acquired by coconut plantation belonging to the wife of the applicant which is at Kerala which is an agricultural income and same cannot be taken into account for the purpose of calculating the case of the present applicant. He would further submit that the applicant retired from services in the year 2009, the applicant is aged about 67 years and had undergone angioplasty operation on 6-2-2015 and his wife had also undergone angioplasty operation in the year 2014. He would further submit that the applicant is in jail since 3-10-2016 and no further investigation is required, therefore, he may be released on bail.
4. On the other hand, learned State counsel opposes the prayer for grant of bail and would submit that on raid being conducted, from the possession of the applicant, disproportionate properties were seized. He also referred to the fact that the applicant was arrested in FIR of 2013

since he was caught red handed while taking gratification of Rs.50,000/- for which a separate case is pending.

5. I have heard learned counsel for the parties, perused the case diary and other documents.
6. Perused the case diary, charge-sheet and also considered the Rule 19 of the Rules 1965 and also perused the medical documents annexed to the bail petition from which it appears that the applicant has undergone angioplasty operation.
7. Taking into consideration the facts and circumstances of the case, further considering the medical report of the applicant and also the fact that charge-sheet has been filed, the applicant is aged about 67 years who is in custody since 301-2016 and no further investigation is necessary, I am inclined to release the applicant on bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju