

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1117 of 2016

- Vinod Sinha S/o Late Narsingh Prasad Sinha Aged About 46 Years (Now 54) Years. Occupation Accountant, In The Office Of Assistant Comissioner Tribal Welfare Department Ambikapur R/o Kadarapur Police Station & Tahsil Ambikapur, District Surguja, Chhattisgarh.

---- **Petitioner**

Versus

- State of Chhattisgarh Through Station House Officer, Police Station Ambikapur, District Surguja, Chhattisgarh.

---- **Respondent**

For Applicant : Mr. Shakti Raj Sinha, Advocate

For Respondent/State : Mr. Neraj Jain, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

12-01-2017

1. Apprehending arrest in connection with Crime No. 317 of 2007 registered at Police Station Ambikapur, District Surguja (CG) for offence punishable under Section 420 of the IPC, the applicant has preferred the second bail application for grant of anticipatory bail. Earlier, first bail application for grant of anticipatory bail was dismissed as having become infructuous by co-ordinate Bench of this Court on 20-4-2009.
2. As per case of the prosecution, a report was made in the year 2007 that there has been misappropriation of amount in purchase of framing boards which were to be used for advertisement of Rashtriya Gramin Rojgar Guarantee Yojna. Subsequently, after investigation charge-sheet was filed in the year 2007 against one Hari Narayan Gupta who has delivered the framing boards. Subsequently, he has filed an application under Section 319 of the Cr.P.C., before the court below with a request to array the present

applicant as one of the accused. The said application was allowed, therefore, apprehending arrest, the applicant has filed the instant bail application.

3. Learned counsel appearing for the applicant would submit that the incident is of 2007 and after enquiry charge-sheet was not filed against the applicant, the applicant has not committed an offence and after gap of nine years, on the application of Hari Narayan Gupta, notice was issued to the present applicant under the provisions of Section 319 of Cr.P.C. it is stated that the orders dated 28-9-2011 and 20-8-2015 are under challenge wherein co-ordinate Bench of this Court has granted interim order in favour of the applicant and has protected the applicant that no coercive action shall be taken against him. He would further submit that still there is apprehension of arrest, therefore, the applicant may be extended the benefit of Section 438 of the Cr.P.C.
4. Learned State counsel opposes the prayer for grant of anticipatory bail and would submit that after enquiry charge-sheet was not filed against the applicant and the application filed under Section 319 of Cr.P.C., by Hari Narayan Gupta was also opposed before the court below
5. I have heard learned counsel for the parties, perused the case diary and documents.
6. Perused the order dated 28-9-2011 passed by the court below which is affirmed by order dated 20-8-2015 passed by the revisional Court whereby cognizance has been taken against the applicant under Section 319 of the Cr.P.C.
7. Taking into consideration all the facts and circumstances of the case and further considering the fact that the State has not arrayed

the applicant as accused and the application filed under Section 319 of the Cr.P.C. was also opposed before the court below, I am of the considered opinion, prima facie, that it is a fit case where benefit of Section 438 of Cr.P.C., can be extended to the present applicant.

8. Accordingly, the bail application filed under Section 438 of Cr.P.C., for grant of anticipatory bail 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 his executing a personal bond in the sum of Rs.25,000/- with one local 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) 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

Raju

