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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1333 of 2016**

Anil Kumar Sharma S/o Shri Ganesh Prasad Sharma Aged About 57 Years Senior Assistant, Presently Incharge Of, In-Charge Manager, Kisan Rice Mill, Gandai, District Rajnandgaon , Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Gandai, District Rajnandgaon, Chhattisgarh.

---- Respondent**And****M.Cr.C.(A) No. 28 Of 2017**

Suresh Kumar Agrawal S/o Late Durga Prasad Agrawal, Aged About 62 Years R/o Qtr., No. 229/3, Ward No. 14, Baldeo Bag, Rajnandgaon, District- Rajnandgaon Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through- The Police Station- Gandai, District- Rajnandgaon Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Manoj Paranjpe, Shri Vikas Pandey and Shri Ravindra Agrawal, Advocates.
For the Respondent/State	:	Shri Anant Bajpai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****15.11.2017**

1. Both these applications are being decided by this common order as they arise from the similar incident. These are the first bail applications under Section 438 of Cr.P.C. filed by the applicants for grant of anticipatory bail, who are apprehending arrest in connection with Crime No. 137 of 2016 registered at Police Station – Gandai, District – Rajnandgaon, Chhattisgarh for the offences punishable under Section 409/ 34 of the Indian Penal Code.

2. It is submitted by counsel for the applicants that the applicants are innocent and have been falsely implicated in these cases. On behalf of applicant – Anil Kumar Sharma it is submitted that he was placed in charge of Kisan Rice Mill, Gandai on 31.5.2016, because the previous in-charge Mr. S.K. Agrawal was superannuating on that date hence, the applicant simply gave appearance on duty on 31.5.2016 vide Annexure- A/3. The applicant did not receive the charge of the stock and go-down etc. from the retiring officer Mr. S.K. Agrawal. The applicant started to verify the stock from 4.6.2016 and found shortage. On query being made from Mr. S.K. Agrawal, no reply was given and no explanation was submitted. Thereafter, the shortage found in the stock was reported by Anil Kumar Sharma to the superior authority on 29.6.2016 vide Annexure-A/5. In the inquiry conducted by the District Marketing Officer, Rajnandgaon, applicant – Anil Kumar Sharma was held responsible for dereliction of duty by not taking charge in detail from the retiring officer. Hence, it is submitted that applicant - Anil Kumar Sharma is not responsible for any other defalcation or misappropriation in this case. Hence, it is prayed that applicant – Anil Kumar Sharma be benefited with grant of anticipatory bail.

3. Shri Ravindra Agrawal, learned counsel for applicant – Suresh Kumar Agrawal submits that the applicant superannuated on 31.5.2016 and he handed over the charge to Anil Kumar Sharma. Thereafter, he was not responsible for any of the shortage found in the stock. After the said date, there is no such report that the shortage of the stock was immediately disclosed on 31.5.2016. Sufficient time has been taken to report the shortage by the relieving officer. Hence, looking to the belated report of the

shortage, it is prayed that applicant – Suresh Kumar Agrawal is entitled for grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect.

5. Heard counsel for both the parties and perused the case diary.

6. On perusal of the case diary and the documents produced by applicant – Anil Kumar Sharma in M.Cr.C(A) No. 1333 of 2016 it appears that applicant - Anil Kumar Sharma assumed charge on 31.5.2016 but there is no charge report of the stocks and go-downs which had been in charge of another applicant - Suresh Kumar Agrawal, except the statement of submission made on behalf of applicant - Suresh Kumar Agrawal, that he has handed over the charge of all the stocks to applicant - Anil Kumar Sharma. There is no document in support of this statement or presented with the application or in the case diary. Hence, on the basis of the submissions made, the contents of the case diary and the documents submitted, I am of the view that applicant - Anil Kumar Sharma is entitled for grant of anticipatory bail, whereas no extra-ordinary case is made out in favour of applicant – Suresh Kumar Agrawal hence, his bail application is liable to be rejected.

7. In view of above, the anticipatory bail application of applicant – Suresh Kumar Agrawal in M.Cr.C.(A) No. 28 of 2017 is rejected.

8. Accordingly, the anticipatory bail application of applicant – Anil Kumar Sharma in M.Cr.C.(A) No. 1333 of 2016 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. He 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 them 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/-

(Rajendra Chandra Singh Samant)
Judge