

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 230 of 2017**

- R.K.Pandey S/o Babu Lal Pandey, Aged About 63 Years, R/o Q. No. D-7, Nature City, Sakri, Bilaspur District Bilaspur Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through S.H.O., Police Station Mungeli District Mungeli Chhattisgarh

---- Non-applicant

For Applicant	: Shri Ravindra Sharma, Advocate
For Non-applicant/State	: Shri U.K.S. Chandel, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****05/12/2017**

1. Apprehending arrest in connection with Crime No.312/2008, registered at Police Station- Mungeli, District – Mungeli (C.G.), for offence punishable under Section 409, 420, 467, 468 & 471/34 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicant that the applicant is innocent and he has been falsely implicated. It is true that in the FIR lodged on 04-10-2008 the name of the applicant was reflected as one of the accused persons. In the meanwhile, an enquiry was conducted departmentally, in which the applicant was exonerated and a memo was sent to the concerned police station showing intention to not to proceed against the applicant in the matter. Subsequently, charge sheet was filed before the trial Court against three accused persons, in which the applicant was not arrayed as one of the accused. The applicant was arrayed as a witness and was also called by the Court concerned and it was there he received the copy of the application under Section 319 of the

Cr.P.C., in which it was prayed that the applicant be made accused in the case. As per the information received, the application filed under Section 319 of the Cr.P.C. had been allowed and non-bailable warrant has been issued against the applicant. It is prayed that looking to the result of the departmental proceeding, the application filed by the applicant deserves to be allowed and the applicant may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application for grant of anticipatory bail and the submission. It is submitted that the witnesses under Section 161 of the Cr.P.C. have given statement that the applicant had the authority to draw and disburse some amount entrusted with him for the construction work in question and as alleged it is the same amount which has been embezzled in this case, hence, for these reasons the applicant does not deserve to be benefited with grant of anticipatory bail.

4. I have heard learned counsel for the parties and perused the case diary.

5. The facts of the case are these that in the matter of digging a pond in village Buchipara no work was done and fake bills were raised, on the basis of which Rs.10,49,999/- were withdrawn and misappropriated by the concerned. The FIR reflected the name of the applicant as one of the accused. Subsequent to that the applicant was exonerated in the departmental enquiry and the information was sent to the concerned police station regarding the same. Presently, a change in situation has taken place when one application was moved by the prosecution to array the applicant as accused in the case.

6. Taking into consideration this fact that the case has been investigated and the departmental enquiry has been conducted, in which

the applicant was not found guilty of embezzlement, breach of trust and misappropriation of the government fund. What development has taken place later on is not for perusal before this Court, and keeping all the facts into consideration, this Court is of the view that present is fit case where the applicant should be benefited with grant of anticipatory bail.

7. Accordingly, the anticipatory bail application is allowed. 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.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge