

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M. Cr. C. (A) No. 379 of 2017**

Sudhir Patel S/o Singeshwar Patel, aged about 49 years, Occupation Contractor, R/o H.I.G.- 9, Chiranjivi Das Nagar, Tahsil and Zila, Raigarh, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh through: the Station House Officer, Police Station Chakradhar Nagar, District- Raigarh, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Mateen Siddiqui, Advocate
For Respondent/State	:	Shri Ashish Shukla, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****17/05/2017**

The present application under Section 438 of Cr.P.C. has been filed seeking for grant of anticipatory bail to the applicant apprehending his arrest in connection with Crime No. 179/2016 registered at P.S. Chakradhar Nagar, District Raigarh (CG) for the offence punishable under Sections 420, 467, 468, 471, 120-B of IPC and Sections 13 (1), 13 (2)(D) of the Prevention of Corruption Act.

2. The case of the prosecution is that the Executive Engineer namely Karan Singh Karsoria of Public Health Engineering Department, Raigarh Division is said to have issued a notice on 07.07.2014 inviting tender for construction of a boundary wall. It is said that the said tender was published in a daily news paper namely Sambad Shikhar on 20th July 2014. Based upon which the work order was issued on 25.08.2014 and the total cost of the work was rupees 21.31 lakhs. Subsequently, a complaint was lodged by one Amarnath Agrawal after obtaining information under the RTI Act that no such publication was made in any of the reputed daily news papers as is required

under the rules, neither was it published in Sambad Shikhar as was claimed by the Executive Engineer. Later on, it was found that the said publication dated 20.07.2014 in Sambad Shikhar was a fake publication on the basis of which the work order was issued to the present applicant and others. The allegation against the present applicant is that he is said to have executed the work for an amount of rupees 16.13 lakhs on the basis of a fake tender without publication in the news paper, the tender was allotted to the applicant by the Executive Engineer.

3. Counsel for the applicant submits that initially the name of the applicant was not in the FIR and there is a delay in lodging of the same. He submits that there is no connivance whatsoever between the applicant and the Executive Engineer. Lastly it has been submitted that it is not a case of any default on the part of the applicant as the entire work as per the work order has been performed to the satisfaction of the Authorities and therefore, the applicant is entitled for anticipatory bail.

4. State counsel, however, opposes the bail application on the ground that the entire basis of the work order issued to the applicant itself is by playing fraud. According to the State counsel, there cannot be a better fraud played with the Govt. then by deciding tenders without any publication being made and based upon a fake publication without the same said to have been published in the news paper. State counsel also draws the attention of the Court that as per the Govt. norms, the publications in respect of tenders worth more than ten lakhs have to be made at least in two of the reputed daily news papers having wide circulation in the State/country. But in the instant case, this also has not been followed much less the publication even in the daily news paper Sambad Shikhar has not been done.

5. Taking into consideration the entire facts and circumstances of the case, particularly accepting the fact that the petitioner was one of the major beneficiaries from the said work got done by the Executive engineer, this

Court is of the opinion that there appears to be prima facie strong materials against the applicant dis-entitling him for the benefit of Section 438 of CrPC.

6. Accordingly, the instant application filed under Section 438 CrPC stands rejected.

**Sd/-
(P. Sam Koshy)
Judge**