

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Misc. Criminal Case (A) No.391 of 2017**

- Indra Kumar Chakradhari S/o S.L.Chakradhari, Aged About 38 Years R/o Kumharpara, Raipura, District Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Mahasamund, District Mahasamund, Chhattisgarh

---- Respondent

For Applicant	: Shri Praveen Das, Advocate
For Respondent/State	: Shri OP Sahu, Govt. Advocate

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****12.10.2017**

Heard the matter finally.

2. This application under Section 438 of Code of Criminal Procedure, 1973 (for short 'the Code') has been filed by the applicant apprehending his arrest in connection with Crime No.78/2016 registered at Police Station Mahasamund Distt. Mahasamund (CG) for offence punishable under Sections 420, 467, 468, 471, 409/34 of the Indian Penal Code.

3. Learned counsel for the applicant submits that after investigation, police has filed charge sheet against total six accused persons out of whom co-accused Rajendra Chandrakar, Smt. Smita Sinha, Anil Sharma, Jashpal Jaiswal and Makhanlal were either arrested during investigation or surrendered before the Criminal Court in the proceedings and presently only the

applicant is shown as absconding in the said matter. Co-accused Rajendra Chandrakar and Smita Sinha and present applicant belongs to the same NGO. Remaining three accused persons namely Anil Sharma, Jashpal Jaiswal and Makhanlal are concerned with another NGO. Learned counsel for the applicant would submit that co-accused Rajendra Chandrakar, who belongs to same NGO has already been granted regular bail under Section 439 of CrPC on 23.3.2017 in MCRC No.1646/2017 by the Coordinate Bench. Co-accused Smt. Smita Sinha has also been granted anticipatory bail on 17.5.2017 in MCRC No.370/2017 wherein Crime number was wrongly mentioned and the same was corrected vide order dated 28.7.2017 in Cr.M.P. No.949/2017 by the Coordinate Bench. With this, except present applicant two other office bearers of the NGO CIDO were granted bail. As per the allegation Rs.3,58,000/- was granted and accepted by the said NGO in which present applicant is also an Officer bearer and the said amount was not used by the said NGO for the purpose given to it. It is alleged that a forged bill has been raised by the said NGO against the said amount. With this allegation, investigation has been completed and charge sheet has been filed in accordance with law. The State authorities made a demand note for return of said Rs.3,58,000/-. Rajendra Chandrakar, President of the said NGO, deposited the said amount with the State authorities. With this, if at all there is any misuse alleged in the charge sheet the State authorities have received back the entire amount. There is no earlier criminal antecedent reported against

the applicant, two aforementioned office bearers have already been granted bail by the coordinate Bench. Case of the present applicant is similar with the co-accused persons, the trial may take some time , the applicant will not commit any offence in future , he will cooperate in the trial, he may be granted bail in the event of arrest by the concerned police authorities/concerned criminal court.

4. Per contra, learned counsel for the State opposed the arguments advanced on behalf of the applicant though fairly conceded that entire amount of Rs.3,58,000/- has been deposited by Rajendra Chandrakar, President of the said NGO to the State Government. But looking to the facts surfaced in the charge sheet, instant bail application may be dismissed.

5. Perused the entire material. Also perused the documents filed on behalf of the applicant, copy of the bail order in respect of co-accused Rajendra Chandrakar and Smt. Smita Sinha and also perused the photo copy of the documents submitted by the respondent/State during the course of the hearing and the same are made part of the record.

6. On perusal of the entire material it appears that the case of the present applicant is at par with co-accused Rajendra Chandrakar and Smt. Smita Sinha. Whatever the allegation regarding misuse or non-use of the amount of Rs.3,58,000/- belonging to State, the same has been deposited back with the concerned department and authority. The other two co-accused

persons were already granted bail, there is no criminal antecedent reported against present applicant. On due consideration of the entire facts, this Court is of the view that this is a fit case where benefit of anticipatory bail be granted to the applicant.

7. Consequently, application filed under Section 438 of the Code is hereby allowed.

8. It is directed that in the event of arrest by the concerned police/concerned criminal court in connection with above mentioned offence, the applicant shall be released on bail by the officer/trial Court arresting him on his furnishing a personal bond in the sum of Rs.25,000/- with one solvent surety of the like sum to the satisfaction of the said Court. The applicant shall cooperate in the trial. If the applicant deliberately without any proper and cogent reason does not cooperate with the trial, the order granting anticipatory bail by this Court shall automatically stand cancelled by concerned Magistrate having jurisdiction without further reference, under intimation to the Registry. If the concerned Court having jurisdiction after considering the facts found that the applicant in any way not complied the directions given by this Court the anticipatory bail granted to the applicant shall automatically cancelled without further reference to the Bench. It is also made clear that this order granting bail to the applicant shall stand cancelled automatically without reference to the Bench by the Court below if (i) the trial Court finds that the applicant suppressed filing or pendency of any other application for grant of

bail before this Court or the Hon'ble Apex Court intentionally; (ii) the applicant is found to be involved in any offence of the like nature and (iii) the trial court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of the above, the Court below may proceed further under the provisions of law, under intimation.

Certified copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
JUDGE