

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRC No. 3660 of 2017**

Kundan Kumar Banjare S/o Kamta Prasad Banjare, Aged About 38 Years Deputy Director, Mining Department, Directorate, Indrawati Bhawan, Raipur, R/o Village Bhotahli, Post - Farfaud, Tehsil - Arang, District - Raipur, Chhattisgarh.

**---- Applicant**

**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station - E O W / Anti Corruption Bureau, District - Raipur, Chhattisgarh.

**---- Respondent**

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For applicant - Shri Ajay Kumar Mishra, Sr. Advocate with Shri Ankit Singhal, Advocate.

For Respondent/State – Shri Anil S. Pandey, G.A.

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**Hon'ble Shri Justice Goutam Bhaduri**

**Order**

**16/06/2017**

1. The applicant has preferred this application for grant of bail as he is arrested in connection with Crime No. 47/2016 registered in Police Station EOW/ACB, Raipur for offence punishable under section 13(1)(e) and 13(2) of Prevention of Corruption Act, 1988.
2. As per the prosecution case, search having been conducted in the house of the applicant and his father disproportionate property were found in the possession of the applicant. The applicant was appointed to the post of Mining Officer on 17/06/2008 and during search amount and different assets held by applicant were found which were over and above to the income derived from legal sources. During investigation it was found that Rs.38,19,220/- were earned by the applicant during his service whereas he has spent Rs.1,80,47,748/- thereby Rs.1,42,28,528/- was found to be over and above the income. The different assets were in the

name of mother, father and his brother. It is alleged that said assets were procured by applicant by misusing the capacity of public servant that of mining officer.

3. Shri Ajay Kumar Mishra, Sr. Advocate assisted by Shri Ankit Singhal, Advocate would submit that during raid only Rs.34,000/- cash was recovered and property worth Rs.11 lakhs was found to be in the possession of the applicant. It is stated that raid though was conducted on 3/06/2016, however the applicant was not arrested and during investigation he cooperated and when the charge sheet was filed on 1/05/2017 the applicant appeared before the court then only he was arrested. It is stated that father of the applicant was granted bail but it was denied to the applicant. It is further contended that prosecution agency itself found it proper not to arrest the applicant during investigation and since charge sheet has been filed there is no need to keep the applicant in custody as the investigation is complete. He placed his reliance in case of **Sanjay Chandra Vs. Central Bureau of Investigation** reported in **(2012) 2 SCC 40** and would submit that under the circumstances keeping the applicant in custody will not serve any purpose as it would meant to give a taste of imprisonment or lesson to applicant and further investigation has already been completed and charge sheet has been filed it cannot be presumed that there would be tampering of evidence. It is stated that there are 39 witnesses are enlisted, therefore it may take considerable time, therefore no purpose would be served to keep the applicant in jail and the applicant may be released on bail.

4. Learned State counsel vehemently opposes the prayer for grant of bail. He went through the statement of Nishant Jain, Shailendra Kumar Mishra and Rajendra Kumar Gwal and would submit that the applicant using his influence has given cash amount of Rs.75 lakhs to Nishant Jain

and from Nishant Jain car was seized though the amount was paid by applicant and remaining Rs.45 lakhs was recovered in cash. Further it is submitted that the applicant himself got salary paid to his wife and routed the amount through other agency so as to project the income to be legal. Therefore the applicant has committed a grave offence being public servant and he may not be enlarged on bail as at present there are chances of tampering of evidence.

5. Perused the case diary and the documents. Going through the statement of Nishant Jain it would show that the applicant had kept the amount of cash with such Nishant Jain and ledger were prepared and total Rs.75 lakhs was deposited with him and certain amount was debited for purchase of the car and further cash recovered. The statement further shows that periodically the cash was routed through him to one Brilliant Public School, Bahtarai so as to make payment of salary to his wife to project the same as legal income. A pen drive was also seized. Same statement is further corroborated by Shailendra Kumar Mishra and Rajendra Kumar Gwal who is also employee of the mining office stated that the applicant used to receive different packets from mining contractors which was kept by him and the packets were taken by present applicant. Rajendra Kumar Gwal appears to be the employee of the mining office wherein the applicant was also working. The record would show that despite the raid and recoveries the applicant was not arrested and as appears special privilege was provided to applicant deviating from hard realities in manner the other similarly accused are treated. Therefore the influence of the applicant cannot be shelved.

6. Taking into facts of this case including that one Rajendra Kumar Gwal who is clerk in the office wherein the applicant was working has stated against him and principle laid down by the Supreme Court in case

of **Subramanian Swamy Vs. Central Bureau of Investigation (2014) 8 SCC 682** wherein it has been observed that,

“Corruption is an enemy of nation and tracking down corrupt public servants and punishing such persons is a necessary mandate of the PC Act, 1988. It is difficult to justify the classification which has been made in section 6-A because the goal of law in the PC Act, 1988 is to meet corruption cases with a very strong hand and all public servants are warned through such a legislative measure that corrupt public servants have to face very serious consequence.”

“Corruption is an enemy of nation and tracking down corrupt public servant, howsoever high he may be, and punishing such person is a necessary mandate under the PC Act, 1988. The status or position of public servant does not qualify such public servant from exemption from equal treatment. The decision making power does not segregate corrupt officers into two classes as they are common crime-doers and have to be tracked down by the same process of inquiry and investigation.”

7. It was further held that corruption corrodes the moral fabric of the society and corruption by public servants not only leads to corrosion of the moral fabric of the society but is also harmful to the national economy and national interest, as the persons occupying high posts in the Government by misusing their power due to corruption can cause considerable damage to the national economy, national interest and image of the country.

8. In view of the said principles laid down by the Supreme Court and the way huge cash was channelised through different sources and the fact the applicant avoided his arrest for considerable time would demonstrate his influence. Taking into totality the facts, I am not inclined to release the

applicant on bail as of now.

9. Accordingly, the bail application is dismissed.

Sd/-

(Goutam Bhaduri)

Vacation Judge

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