

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 627 of 2017**

Omprakash Sinha, S/o. Pathari Sinha, Aged About 41 Years, R/o. Village Chuiha, P. S. Rajim, District -Gariyaband, Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Police Station -Rajim, District -Gariyaband Chhattisgarh.

---- Respondent

For Applicant	: Mr. Manoj Paranjpe, Advocate
For Respondent/State	: Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**16/11/2017**

1. Apprehending arrest in connection with Crime No.95/2017, registered at Police Station- Rajim, District – Gariyaband (C.G.), for offence punishable under Section 409, 420, 467, 468, 471, 120(b) R/w. Section 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 applicant is innocent and has been falsely implicated in this case. Applicant had been a office bearer of the Gram Panchayat – Koundkera, he has played no role in alleged offence committed. It was the proposal brought by Rojgar Sahayak – Kuleshwar Mandal that allotment of house under Indira Awas Yojana was made in favour of Smt. Kailash Bai for the reasons that earlier allottee Rukhmin Bai, D/o. Munouwa Ram was reported to be dead. Later on it was found that Kailash Bai happens to be the mother of Rojgar

Sahayak – Kuleshwar Mandal. On the basis of this disclosure, it was the applicant, who issued notice for refund of the amount of Rs.20,000/- advanced in favour of Kailash Bai and the same was deposited in the account of Gram Panchayat. It is also submitted that proposal of Rojgar Sahayak – Kuleshwar Mandal was passed by the members of the Gram Sabha and the office bearers of the Gram Panchayat jointly. Hence no criminal responsible can be attached with the applicant only. Therefore, it is prayed that the applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submission made in this respect. It is submitted that on the basis of the enquiry report submitted by the enquiry committee, applicant, Rojgar Sahayak- Kuleshwar Mandal, Chetan Ram – Sarpanch were held responsible and action was proposed against them. It was found in the enquiry that the said Rukhmin Bai was alive, who was shown to have expired and without making any enquiry about the legal representative of Rukhmin Bai, applicant and others simply passed the proposal, which was brought by the Rojgar Sahayak – Kuleshwar Mandal, hence this is a fraudulent act of their part. Therefore, the applicant is not entitled to be released on anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents.
5. As per the FIR, Rukhmin Bai, D/o. Munouwa Ram was allotted a house by the Gram Panchayat – Koundekera in Pradhan Mantri Awas Yojana. A proposal was brought by Rojgar Sahayak – Kuleshwar Mandal, before the Gram Sabha that Rukhmin Bai allottee has expired and on the basis of Kailash Bai was identified

as legal representatives of Rukhmin Bai, proposal for allotment of said house was passed by the Gram Sabha in which, the applicant took part as a Secretary of the said Gram Panchayat. After lodging of FIR case has been registered and investigation is pending.

6. Considering the submissions made by the parties and the contents of the case diary and the specific allegation against the applicant that he did not verify the truthfulness about the submission made by Rojgar Sahayak – Kuleshwar Mandal as to the death of Rukhmin Bai and allowed the proposal to be passed by Gram Sabha because of which, he is being held responsible. The criminality of the act on the part of the applicant needs consideration by the trial Court but for the present, this Court finds it to be a fit case, where the applicant should be extended the benefit 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram