

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 4884 of 2017**

- Sudhir Kumar Gupta, S/o Laxmi Prasad Kesharwani, Aged About 56 Years, Presently Posted As Executive Engineer, Municipal Corporation, Bilaspur, Chhattisgarh, R/o Near Luthra Hospital, Nehru Nagar, Bilaspur, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Anti Corruption Bureau, Bilaspur Division, Bilaspur, Chhattisgarh.

---- Respondent

For Applicant : Shri Rajeev Shrivastava along with Shri
Gagan Tiwari, Advocate.

For Non-applicant/State : Shri Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai**Order On Board****08.09.2017**

Heard the matter finally.

2. Learned counsel for the applicant would submit that the applicant has been arrested in connection with Crime No.85/2002 on 10/07/2017 by Investigating Agency-Anti Corruption Bureau, Bilaspur Distt. Bilaspur (C.G.) for the offence under Section 13 (1) (e) read with Section 13 (2) of the Prevention of Corruption Act, 1988 (For short The Act of 1988).

3. Learned counsel for the applicant submit that after investigation police had filed charge-sheet which is presently pending before the Special Judge under the Prevention of Corruption Act, 1988 as Special Criminal Case (The Act of 1988) No. 28/17.

Learned counsel for the applicant would submit that applicant is presently working as Executive Engineer in Municipal Corporation, Bilaspur (C.G.) and he is a permanent resident of Bilaspur (C.G.) and the Investigating Agency had taken the check period from 07/03/1983 to 27/03/2002 for about 19 years. As per allegation, the known sources of income of the applicant was disproportionate i.e. more than the income received by the applicant during his tenure as an employee of Municipal Corporation for 13,15,465/-. For this money as it was disproportionate to the known sources of income the Investigating Agency had filed the charge-sheet and matter is pending for trial. Learned counsel for the applicant would further submit that on 27/03/2002, the search was made in the house, where the applicant, his spouse and other family members were living. The said house was in the joint possession of applicant, his mother and his brother. The wife of the applicant is an earning member of the family, she has her own source of income and she is also an income tax assessee. Besides this applicant is also having agricultural income based on the agriculture and also rental income, but during investigation the Investigating Agency has not taken the said income in the calculation, alleging that the applicant had not informed the income shown to his parent department. As submitted the Service Conduct Rule 1965, was not applicable to the applicant till 2007. To demonstrate this, learned counsel draws the attention of this Court in a circular issued by Madhya Pradesh Government General Administration Department No. C.5-3/94/3/1 Bhopal dated 01/10/1994. Learned counsel would further submit that after the application of conduct rules, the applicant duly informed to his department regarding the income and other assets, but as it was not

applicable prior to the 24/01/2008 as it was not required, hence the applicant had not committed any mistake by not informing to his department regarding the income of wife, rental income and agricultural income. It is submitted that the Investigating Agency has audited half of the agricultural income as the applicant being a public servant and regular employee made the agricultural operation on contract. It is further submitted that in the year 1987, applicant got married, he had received the gift, jewellery of his wife 'Stridhan', received by the wife of the applicant, at the time of marriage. Learned counsel would submit that the on following heads the claim of the applicant was denied/doubly calculated/wrongly calculated are-

- (i) Agricultural income of Rs.2,52,142/-.
- (ii) Income of the wife Rs.1,95,000/-.
- (iii) Jewellery 'Stridhan' of the wife of Rs.1,42,235/-.
- (iv) Rs.3,40,899/- (added twice).
- (v) Rs.65,000/- denied.
- (vi) Rs.1,92,230/- debenture/share was wrongly calculated.
- (vii) Rs.8,000/- incurred for the Life Insurance Corporation not accepted.
- (viii) Rs.2,000/- incurred in the Fixed Deposit not accepted.
- (ix) Rs.2,94,200/- cost for immovable property, but as the immovable property and house belongs to mother and family member, the department wrongly held the said as expenditure by the applicant.
- (x) Rs.3,00,000/- advances received by the wife for giving shop on rent. The department though taken the monthly rent into consideration but denied for the advances.

Learned counsel for the applicant would submit that applicant had

prima-facie good case to demonstrate that he was not having any disproportionate property as alleged by the Investigating Agency. Trial may take some time, he will not abscond. He may be granted bail.

4. Per Contra, learned counsel for the respondent/State opposes the argument advanced on behalf of the applicant and would submit that whatever made available by the applicant during the investigation that was scrutinized/examined and the department prepared the statistical data and also other facts and prima-facie held that applicant was having income disproportionate as required under the law. Hence the instant MCRC may be dismissed.

5. Perused the entire material.

6. As the applicant is in custody since 1 months and 29 days till date, the incident is of 2002, after 15 years charge sheet has been filed, he is aged about 56 years and there is no possibility to abscond, trial may take some time and also prima-facie considering arguments advanced regarding the income which was wrongly added/not accepted/denied and also upon considering the factual aspect as submitted that till 2008, it was not required to Municipal employee to intimate his parent department regarding his immovable property and other income from the different heads of the family and others, which was applicable to government servant under service laws. On consideration of the entire facts, I am inclined to grant one opportunity to the applicant so that he shall not commit any offence in future and shall remain peacefully in the society without committing any crime.

7. Consequently, the instant MCRC is allowed.

8. The applicant is directed to be released on bail on his furnishing a personal bond in the sum of Rs.1,00,000/- with two solvent sureties of Rs.50,000/- each to the satisfaction of Trial Court, for his appearance before the said Court regularly as and when directed by the said Court.

9. It is 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 does not cooperate in the trial; (iii) the applicant is found to be involved in any offence of the like nature; (iv) the trial Court finds that the applicant remains absent without any sufficient and cogent reason. If bail is cancelled automatically in view of above, the Court below may proceed further under the provisions of law under intimation.

10. Certified Copy as per rules.

Sd/-
(Chandra Bhushan Bajpai)
Judge