

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1064 of 2016

- Khilavan Mishra, aged about 28 years, s/o. Shri Ramendra Mishra, r/o. Village Budera, Post Bhatgaon, Tahsil Saja, District Bemetara (CG).

---- Applicant

Versus

- State of Chhattisgarh Through : SHO, PS Civil Line, Raipur (CG).

---- Respondent

For Applicant : Mr. Y.C. Sharma, Advocate

For Respondent/State : Mr. Sangarsh Pandey, Dy. G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

25-01-2017

1. Apprehending arrest in connection with Crime No. 537 of 2016 registered at Police Station Civil Line, Raipur (CG) for offence punishable under Section 420 of the IPC, the applicant has filed bail application under Section 438 of the Cr.P.C., for grant of anticipatory bail.
2. As per case of the prosecution, the applicant was appointed as Teacher (Panchyat) Gomchi, West Dharsiwa, Raipur in the year 2013. Subsequently, the certificate of B.Sc 3rd year from Guru Gasidas University, on the basis of which he obtained job, was found to be forged and as such the offence was registered because the appointment was obtained by forged document.
3. Learned counsel appearing for the applicant would submit that the applicant had applied with 12th class certificate and subsequently he was appointed on 22-7-2013, thereafter he himself resigned from job on 18-2-2014. He would further submit that the applicant is a handicapped person having 45 % disability of deaf as per Annexure A/2. He would

further submit that at the time of resignation the applicant has returned the entire amount vide Demand Draft No.628488 dated 18-2-2014 of Rs.11,043/- in favour of Zila Panchayat, Raipur, therefore, no *mens rea* is attached to the present applicant, therefore, benefit of Section 438 of Cr.P.C., may be extended to the applicant.

4. Learned State counsel opposes the prayer for grant of anticipatory bail.
5. I have heard learned counsel for the parties.
6. Perused the case diary and other documents, copy of resignation letter, demand draft and also disability certificate. From perusal of the documents, it appears that the applicant is a handicapped person having disability of 45% deaf, he has resigned from job on 18-2-2014 and the entire amount has been returned by demand draft.
7. Taking into totality of the facts and circumstances of the case and further considering the conduct of the applicant and fact that he has resigned from job on 18-2-2014 and returned the entire amount, I am inclined to extend benefit of anticipatory bail to the applicant.
8. Accordingly, the anticipatory bail application is allowed and 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 his executing a personal bond in the sum of Rs.25,000/- with one local 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) the applicant shall appear before the concerned court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju