

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 1075 /2016

Basanti, W/o. Ranjeet Singh, Aged About 35 Years, R/o. Village- Aara,
Police Station- Rajpur, District Balrampur-Ramanujganj, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through- Police Station- Rajpur, District- Balrampur
– Ramanujganj, Chhattisgarh

---- Respondents

For Applicant	:	Mr. Rakesh Kumar Jha, Advocate.
For Respondent	:	Mr. Neeraj Jain, Govt. Advocate.
For Objector	:	Mr. V.K.Pandey, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

16/02/2017

1. Apprehending arrest in connection with Crime No.126 of 2016 registered at Police Station- Rajpur, District Balrampur-Ramanujganj (C.G.) for the offence punishable under Section 409 of Indian Penal Code, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, a complaint was made by the Food Inspector that the rice which was meant for public distribution, the applicant in the capacity of Sarpanch got it unloaded in the private place which was objected by the Swa Sahayta Samooh on the ground that the S.D.O. has appointed Saheli Mahila Swa Sahayta Samooh to distribute the food grains. Subsequently, after such complaint, the rice were returned, however, there was a shortage of 1 Qintal. 97 Kg. Thereby, the offence is committed.
3. Learned counsel for the applicant would submit that the applicant being a Sarpanch, she took over the charge on 04.02.2015 as per

the documents and before that the Fair Price Shop distribution was being done by the Gram Panchayat. However, on a resolution earlier to it on 03.03.2014, it was decided to distribute the food grains through Swa Sahayta Samooh, as such, after passing the resolution, the same was sent to the S.D.O. and the S.D.O. by an order dated 20.03.2015 has directed for distribution of the food grains by Swa Sahayta Samooh, the same was reached on a subsequent date and when the rice was got unloaded after coming to know of the fact, the applicant, who is Sarpanch, had returned the entire goods and 1 Quintal 97 Kg were short, since it was scattered on the floor, it was also offered to be given back by different letters dated 11.06.2015 & 15.03.2016, therefore, no offence has been committed, the applicant may be enlarged on bail.

4. Per contra, learned State counsel and the counsel for the objector opposes the prayer for grant of anticipatory bail. Learned counsel for the objector placed on record the document, which shows that Mahila Swa Sahayta Samooh had appointed the objector Mohammad Iqbal as Assistant Sales Manager on 20.04.2015 and prior to that he was also doing the same and the applicant has deliberately taken away the food grains, therefore, the offence is committed.
5. Perused the case diary and the documents of both applicant and objector collectively. The documents would show that the applicant has offered for return of the rice, which was scattered by letter dated 11.06.2015 & 15.03.2016 and she was Sarpanch wherein the rice was unloaded. The documents filed by the objector though the appointment is shown to be from 20.04.2015, the alleged incident is of 19.04.2015. The statement which is filed by the applicant of the

objector is of 19.04.2015 wherein he inscribed as Sales Manager of the Mahila Swa Sahayta Samooch whereas the resolution shows that he was appointed on 20.04.2015; therefore, *prima facie*, it appears the document has sought to be created for objection of this bail. Taking into totality of the case and the decree of allegation, I find it to be a fit case where the benefit of Section 438 of Cr.P.C. can be extended to the applicant.

6. 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, she shall be released on bail by the officer arresting her on furnishing a personal bond to a 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 herself 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 her by the said Court till disposal of the trial.