

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 1165 of 2016

- Pritam Patel S/o Ramchandra Patel Aged About 37 Years Caste -
Aghariya R/o Village Godmarra, Post Pirda, Thana Basna, Tahsil
Pithora, District Mahasamund Chhattisgarh --- **Applicant**

Versus

- State of Chhattisgarh through Police Station Basna, District
Mahasamund Chhattisgarh --- **Respondent**

For the applicant	:	Mr. Sachin Singh Rajput, Advocate
For the Respondent	:	Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

10.02.2017

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No. 182/2015 registered at P.S. Basna, Distt. Mahasamund (C.G) for the offence punishable under Sections 420 & 409 of IPC.
2. As per the prosecution case, the applicant who was President of Grameen Sewa Sahkari Samiti, Maryadit, Pirda permitted the Society to procure large quantity of paddy from farmers in the year 2012-2013 and 2013-2014. Subsequently on physical verification, certain shortage of paddy and embezzlement of other materials i.e., fertilizers & paddy seeds were found thereby heavy loss was caused to the Government exchequer to the tune of Rs.1,29,13,376/-. It is alleged that the applicant has allowed the said shortage/embezzlement of paddy and other material in connivance with other employees of the Society thereby the offence has been committed

3. Learned counsel for the applicant would submit that one Rohit Patel who was incharge of the Society and Yashwant Naik who was working as Data Entry Operator were involved as they procured the paddy and the shortage was found to be 1063.32 quintals for the year 2012-2013 whereas in transportation, the shortage of 1455.65 quintals was found for which the applicant cannot be held liable as it had happened outside the premises and in the enquiry of the year 2012-2013 the applicant was not held guilty. Subsequently in the inquiry of the year 2013-2014 the shortage was found to be 1770.73 quintals and during transportation the shortage was found to be 2869.45 quintals. It is submitted that the petitioner being the President of Society cannot be held liable for shortage in transportation and storage. It is also submitted that the shortage found in the Society tallies with the purchases and the entries of the paddy were made by other person. It is further submitted that in the enquiry only the liability was fastened on the applicant that he has signed certain cheques and no criminality was attributed which would be evident from the report made by the applicant and the FIR was lodged against the employees of the Society. It is further submitted that even the shortage in the Society cannot be attributed as it is below 4% of the procurement and usually during procurement and storage the paddy dries to some extent, consequently according to the circular of the State Government the subsequent shortage/wastage up-to 4% is exonerated. It is further submitted that in the instant case the shortage is less than 4%, therefore, no offence is made out against the present applicant and he may be admitted

to anticipatory bail.

4. Per contra, learned State Counsel opposes the bail.
5. Perused the statements of different beneficiaries which show that some of the witnesses stated that the persons who have obtained loan and purchased paddy had made payment to Rohit Patel which was not deposited. Further this fact was reported to the present applicant who was the President that while making payment, certain deductions were made. The applicant being the President when the complaint was made has not responded to it. Further more, the documents would show that certain deposits were made by the people and the repayments were made which were not accounted for.
6. Taking into the degree of allegations and the fact that the applicant and other accused were stated to be absconding, it is not a case where the benefit of section 438 Cr.P. C., can be extended to the present applicant. Accordingly, this anticipatory bail application is rejected.

**Sd/-
GOUTAM BHADURI
JUDGE**