

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6429 of 2017

- Lav Kumar Mishra S/o Late Goverdhan Prasad Mishra, Aged About 65 Years, R/o Sukhsagar Parisar, G.E. Road Rajnandgaon Chhattisgarh, Permanent Address - Village Kharkhedu, Fatehpur, Uttar Pradesh

---- Applicant

Versus

- State Of Chhattisgarh Through The State Economic Offences Wing & Anti-Corruption Bureau, Chhattisgarh Raipur Chhattisgarh.

---- Non-applicant

For Applicant – Shri B.P. Sharma and Shri M.L. Sakat, Advocate.
For Non-applicant/State – Shri Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

04-12-2017

1. Heard on the application filed under Section 439 of the Cr.P.C. This is first bail application before this Court by the applicant for regular bail. The applicant was arrested on 18-09-2017 in connection with Crime No.27/2010 registered at ACB, Raipur, C.G. for the offence under Section 13(1)(e), 13(2) of the Prevention of Corruption Act, 1988 (in short 'the PC Act').

2. It is submitted on behalf of the applicant that the applicant is innocent and has been falsely implicated in this case. The applicant had in the capacity of public servant earned each and every article that is included in the entries in accordance with law and rules and also by following procedure of service and conduct rules giving information to the department or either taking prior permission for acquiring the same. The applicant has given explanation for each and every article that has been found in his possession during the raid conducted by the Anti Corruption

Bureau (in short 'the ACB') which has not been taken into consideration and he has been falsely prosecuted after he is retired from the service more than 5 years before. No purpose would be served if the applicant is kept in detention till conclusion of the trial, the applicant is aged about 67 years and he is ready to abide by all the conditions imposed, the trial is likely to take some time before its conclusion. Hence, it is prayed that the applicant may be granted bail.

3. Learned counsel for the State/non-applicant opposes the application and submission made. It is submitted that on 20-07-2017, the Anti Corruption Bureau Raipur raided the residential premises of the applicant and made inventory of the articles, papers etc. that were found in his place of residence. After making calculation of the check period from 01-04-2000 to 20-07-2010, it was found that the total income of the applicant from legal sources was Rs.1,02,15,697/- whereas the expenditure made by him was Rs.2,23,08,913/-, which is 118% more than the income from the legal sources of the applicant, because of which the applicant is being prosecuted for the charge of offences.

4. It is further submitted by learned counsel for the applicant that as per the explanation given, the property that were acquired on the relevant point of time had been of lesser value, whereas all the valuation has been made by the ACB on the date of raid conducted and due to the inflation of prices the calculation made does not confirm to the actual cost of acquisition which was spent by the applicant.

5. Learned counsel for the State/non-applicant again opposes the submission made by the learned counsel for the applicant and submits that the calculation has been made according to the norms.

6. Heard learned counsel for both the parties and perused the case diary.

7. Facts of the case have been discussed above. Taking into consideration the contents of the case diary, the facts that the applicant had been a public servant and superannuated since more than 5 years, trial of the case is likely to take some time before its conclusion and further that no purpose would be served if the applicant is kept in detention till conclusion of the trial all along, I am of the considered view that the application filed by the applicant for grant of bail deserves to be allowed.

8. Consequently, the application (MCRC No.6429/2017) filed under Section 439 of the Cr.P.C. by the applicant is hereby allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for his appearance as and when directed.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge