

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1035 of 2017**

Smt. Dayamani Minj W/o Shri Ashish Chaurasia, Aged About 56 Years
R/o 5-4, Jeewan Vihar Colony, Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station
Economic Offences Wing/ Anti Corruption Bureau, Raipur,
Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Kanak Tiwari, Senior Advocate with Shri Varun Sharma, Advocate.
For the Respondent/State	:	Shri Ashish Shukla, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****06.12.2017**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.
2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 22 of 2016, registered at Police Station – EOW, Anti Corruption Bureau, Raipur, District – Raipur, Chhattisgarh for the offences punishable under Sections 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is a public servant and presently posted as Joint Director, Directorate of Food, Civil Supplies and Consumer Protection, Government of Chhattisgarh, Raipur, which is a responsible position. A search was conducted by the respondent on 9.4.2016 in the residence of the applicant which is a rented house of the husband of the applicant. An inventory of all the articles found in the residence was made including the articles belonging to the husband and other family members residing in the same household. On receiving the notice of the respondent, the applicant has given details of all the articles and property acquired by herself, her husband and other family members. The applicant has also cooperated in the investigation and she was never arrested by the respondent during the pendency of investigation. However, without considering and verifying the details of the acquisition of the property submitted by the applicant, charge-sheet has been filed against her. The applicant came to know about the prosecution against her when non-bailable warrant was issued against her. The applicant is a woman belonging to scheduled tribe and holds the position of the public servant. There is no likelihood of her absconding, the investigation is complete, the case is before the trial Court and the trial of the case is likely to take some time for its conclusion. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned counsel for the applicant placed reliance on the judgment of the Supreme Court in the case of **Shri Gurbaksh Singh Sibbia and Others vs. State of Punjab** reported in **(1980) 2 SCC 565** in which the Supreme Court has laid down the principles for grant of anticipatory bail. Reliance has

also been placed on the judgment of Himachal Pradesh High Court in the case of **Meera Walia vs. State of Himachal Pradesh** reported in **(2009) Cri.L.J. 1524** and the judgment of Calcutta High Court in the case of **Mr. Prantick Ghosh vs. Mr. M. Biswas** in **C.R.M. 12756 of 2013** dated 26.9.2013 in which the anticipatory bail was granted in the similar case.

5. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that it has been found in the investigation that the total income of the applicant during the check period was Rs.3,77,09,682/- whereas the expenditure made by her for acquiring various assets was found to be Rs.6,02,43,089/-. The explanation and details of the acquisition given by the applicant has also been investigated by the ACB and the explanation was not found to be satisfactory and as such, the applicant is being prosecuted for the offences of having disproportionate assets which is 58.71% excess to the income from lawful sources. The applicant is in an influential position and if she is released on bail, that may affect the trial of the case against her. Hence, for these reasons, the anticipatory bail application of the applicant be rejected.

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

7. The facts of the case are that the applicant was appointed to the post of Excise Sub-Inspector on 5.10.1987 and thereafter rising in her career has been promoted to the present post. On the basis of information received, the ACB raided the premises of the applicant on 9.4.2016 and made inventory of all the articles and properties held by the applicant in her name and in the name of her family members. The finding arrived at in the

investigation has been discussed above, on the basis of which the applicant is being prosecuted for the offences as mentioned above.

8. Considering the submissions and the contents of the case-diary, the fact that allegations against the applicant in the prosecution are to be replied and defended by her in the trial Court, the applicant is in a responsible position working as a public servant who has not been placed under suspension by the State Government, and also taking into consideration these facts, it appears that there is no likelihood of her absconding and the trial of the case is likely to take considerable time and no purpose would be served if the applicant is allowed to be arrested and kept in detention for the whole period of trial, this application deserves to be allowed.

9. 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 executing a personal bond in sum of Rs.1,00,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. She 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 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.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi