

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Reserved for Orders on : 28/02/2017

Order delivered on : 24/03/2017.

M.CR.C. No. 381 of 2017

Shivshankar Bhatt, S/o. Sri Ram Manohar Bhatt, Aged About 59 Years,
R/o. Deen Dayal Upadhyay Nagar, Raipur, Police Station- D.D. Nagar
Raipur, Tahsil Raipur, Civil Revenue District- Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through : Police Station- Anti Corruption
Bureau, Raipur, District -Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Mukesh Sharma, Mr. Amit Lahoti &
Mr. Anil Gupta, Advocates

For Respondent : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

C A V Order

24/03/2017

1. This is the third bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.09/2015, registered at Police Station- Anti Corruption Bureau, Raipur (C.G.) for the offence punishable under Section 11, 13(i) (d) and 13(2) of Prevention of Corruption Act, 1988 read-with Section 109, 120-B, 409 & 420 of Indian Penal Code. The first bail application was dismissed on merits vide order dated

24.06.2016 in M.Cr.C. No.2041/2016 and the second bail application was dismissed for want of prosecution vide order dated 07.11.2016 in M.Cr.C. No.6898/2016.

2. Case of the prosecution, in brief, is that the applicant being working in the Nagrik Aapurti Nigam i.e. Civil Supplies and posted at Head Quarter, Raipur, as Manager and was In-charge of 27 Districts for supply of Public Distribution System had misappropriated the government paddy which was meant for Public Distribution System and in connivance with the other co-accused in an organized manner received the amount from the different miller and also on the threat of cancellation of the milled rice received the amount from transporters. Further, it is stated that they collected the sub-standard broken rice and collected money from the transporters, on that account received the amount by arm twisting the millers. The said collected amount on different heads were accounted were being maintained separately which was seized. Thereby, the offence is committed.
3. Mr. Mukesh Sharma assisted by Mr. Amit Lahoti and Mr. Anil Gupta, learned counsel appearing on behalf of the applicant would submit that only on the basis of statement of Arvind Singh Dhruw and Girish Sharma, who were initially accused have turned approver, the applicant has been inculpated. It is further submitted that there are 215 witnesses are to be tried and only 3 witnesses have been examined. It is stated that as per prosecution poor quality of paddy was procured for money and quality wing had given false report and the raid was made and the amount was recovered from the office at instance of Girish

Sharma, Arvind Singh Dhruw and Jeet Ram. It is contended that the said persons have shifted the burden on the present applicant, which can not be relied on. The counsel referred to the case law reported in AIR 1975 SC 856 and would submit that when the approver has turned as a witness, it would be unworthy to rely on it. Further it is submitted that trial will take some time and the applicant is going to retire in June, 2017 and since there will be substantial delay in the trial, therefore, the applicant may be enlarged on bail.

4. Per contra, learned State counsel opposes the prayer for grant of bail and would submit that on earlier occasion, the bail of the applicant has been dismissed on merits. It is further submitted that bail of J.P. Dwivedi was dismissed by the Hon'ble Supreme Court vide order dated 18.10.2016 in SLP (Crl.) No.7716/2016 and the bail application of Dilip Kumar Sharma was also dismissed by the Coordinate Bench of this Court vide order dated 15.09.2016 in M.Cr.C. No.5688 of 2016 which was also second bail application and the case of the present applicant is similar, therefore, under the facts and circumstances of the case, the applicant may not be released on bail.
5. Perused the earlier bail rejection order which was passed on merits and further the order dated 18.10.2016, passed in SLP (Crl.) No.7716/2016, in case of J.P. Dwivedi is also perused. The main witnesses, who have turned approver were working in the office of the present applicant only, and they are still to be examined. Primary allegations are on the basis of statement of the said witnesses. Considering the facts and circumstances of

the case and the earlier bail was rejected on 24.06.2016 itself on merits and even the bail of the similarly placed co-accused have been rejected by the Coordinate Bench of this Court, I do not find any change of circumstances to reconsider the bail on merits within the short span of time.

6. In a result, the bail application filed by the applicant under Section 439 of Cr.P.C. is rejected.

Sd/-
(Goutam Bhaduri)
Judge