

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 2512 of 2017**

Shivshankar Bhatt, S/o. Shri Ram Manohar Bhatt, Aged About 62 Years,
Occupation- Service, R/o. HIG 1/138, Sector-1, Pandit Deendayal
Upadhyay Nagar, Raipur, Chhattisgarh

---- Applicant**Versus**

State Of Chhattisgarh, Through Anti Corruption Bureau, Raipur,
Chhattisgarh

---- Respondent

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

For Respondent : Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri**CAV Order****12.07.2017**

1. This is the fourth 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(1)(a)(d) & 13(2) of the Prevention of Corruption Act, 1988 & Section 109, 409, 420, 120-B, 466, 467, 468 of Indian Penal Code.
2. The first bail application was dismissed on merit on 24.06.2016, second bail application was dismissed on 07.11.2016 for want of prosecution and the third bail application was dismissed on merit on 24.03.2017.

3. 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.
4. Learned counsel for the applicant would submit that the grounds on which the third bail application was rejected is that Girish Sharma, Arvind Singh Dhruw & Jeet Ram Yadav were to be examined, however, when Criminal Revision No.403/2016 was filed, three approvals the name above have been made accused. Against such order, Girish Sharma & Others preferred SLP (Crl.) No. 3844-3845/2017 wherein the Supreme Court vide order dated 08.05.2017 has stayed the entire proceedings before the Court below. Consequently, following the law laid down in case of **Sanjay Chandra v. CBI**¹ the facts are totally changed and there are out of 215 witnesses, only 4 witnesses have been examined and enormous delay may be caused and the applicant has retired on 30.06.2017 and no longer in employment, therefore, there are no

¹ (2012) 1 SCC 40

chances to tamper the evidence. Therefore, under the circumstances, the applicant may be enlarged on bail.

5. Per contra, learned State counsel opposes the prayer for grant of bail.
6. Perused the earlier two bail rejection orders. Recently on 24.03.2017 the third bail application was dismissed on merit. Perusal of the order would show that the bail application of the another co-accused 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 co-ordinate Bench of this Court vide order dated 15.08.2016 in MCRC No. 5688/2016. Merely because the approval has been directed to be made an accused, the facts would not change and the issue is still under consideration. Therefore, primary facts and circumstances have not changed. The bail was rejected recently on 24.03.2017 and few of the accused as per the case diary are still absconding. Further, the statement of the witnesses cannot be evaluated while deciding this bail application, as it would amount to holding the trial and to form an opinion, which may either prejudice the prosecution or the accused. Consequently, I do not find any substantial change in the case to reconsider the instant fourth bail application within a short span of time.
7. Accordingly, the bail application filed by the applicant under Section 439 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge