NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 45 of 2017

Shri Munna Lal Saini S/o Late Shri C. L. Saini, Aged About 60 Years Presently Posted As Sub - Divisional Officer, Water Resources, Sub Division Deobhog, District Gariyaband Chhattisgarh

----Applicant

Versus

1. State Of Chhattisgarh Through Secretary, Department Of Home Mantralaya, Mahanadi Bhawan, New Raipur Chhattisgarh
2. Superintendent Of Police Anti Corruption Bureau, Raipur Chhattisgarh
3. Investigating Officer / Inspector Of Police Anti Corruption Bureau, Raipur Chhattisgarh

---- Respondents

For Applicant	:	Shri Manoj Prasad, Advocate with Shri SS Rajput and Shri AK Prasad, Advocates
For Respondents-State	:	Shri Anupam Dubey, Dy. GA for the State

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Hon'ble Shri Justice Goutam Bhaduri

Order On Board

11/08/2017

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No. 56/2009 registered at Police Station Anti Corruption Bureau, Raipur (C.G.) for offence punishable under Section 13(1)(e) and 13 (2) of the Prevention of Corruption Act, 1988.

2. As per the case of the prosecution, the applicant while working as SDO in the Water Resources Department from the various sources procured assets beyond his income and when the raid was conducted and investigation was being carried out it was found that disproportionate asset of Rs.78,69,559/- was held by him. It was further stated that during the raid also different valuable items were also found in the house of the applicant including the

Rolex Watch etc. thereby offence has been committed.

3. Learned counsel for the applicant would submit that on 29.12.2009 the raid was conducted and after the search department was silent. It is further contended that in the year 2013 certain documents were called for and through the initial check period for evaluating the income was from 01.11.1990 to 29.12.2009 but it was subsequently reduced without any cause from 01.01.2002 to 29.12.2009 for a period of 7 years. Thereby the reduction of check period was illegally made. It is further contended that the applicant has earned the assets through his different family members since he stays in a joint family and the income of the son and the other members of the joint family members were also not considered. It is further submitted that for this reason the sanctioning authority did not grant sanction, however, avoiding the same refusal of department sanctioned to prosecute, the prosecution agency has decided to proceed. It is further contended that transaction in between the son and the mother have been illegally added and the agricultural income of the applicant was also not considered. Learned counsel further submits that the parental income was clubbed illegally into the income of the present applicant without any justification. It is further stated that the charge-sheet is yet to be filed and the applicant has altogether co-operated in the investigation, therefore, no useful purpose would be served by keeping the applicant in custody. Consequently, the applicant may be enlarged on bail.

4. Per contra, learned State counsel opposes the bail application and submits that the applicant while working as Sub-Engineer in the Water Resources Department has earned income which was disproportionate to the extent of 25.63% and expenses of Rs.38586068/- was were found whereas the income was Rs.29558722/- thereby as such Rs.7869559/- disproportionate income was found. It is stated that before the check period income was also

considered and after considering the same the income over and above the assets was found.

5. The statement of the applicant that the cheque period was reduced from 1990 to 2002 in between 7 years is wrongly been made cannot be appreciated at this stage while hearing bail. Perusal of the case file would show that entire income of the applicant was examined including savings naturally which would mean what was earned during service. Therefore, primary assessment of assets it shows the income above limit to the extent 25.63 %. Parties submit that charge sheet is yet to be filed. Perusal of the document prima facie it shows that different properties were purchased in the name of son and the wife. The facts were considered alongwith the available evidence the observation made by the Supreme Court in case of **Subramanian Swami Vs. Central Bureau of Investigation** reported in (**2014) 8 SCC 682** would be relevant. The observation by the Supreme Court are shown here under:-

> "Corruption is an enemy of nation and tracking down corrupt public servant and punishing such persons is a necessary mandate of the PC Act, 1988. It is difficult to justify the classification which has been made in section 6-A because the goal of law in the PC Act, 1988 is to meet corruption cases with a very strong hand and all public servants are warned through such a legislative measure that corrupt public servants have to face very serious consequence."

> "Corruption is an enemy of nation and tracking down corrupt puplic servant, howsoever high he may be, and punishing such person is a necessary mandate under the PC Act, 1988. The status or position of public servant does not qualify such public servant from exemption from equal treatment. The decision making power does not segregate corrupt officers into two classes as they are common crime-doers and have to be tracked down by the same process of inquiry and investigation."

6. Further taking into nature of evidence available and charge sheet is yet to

be filed it is not a case where the benefit of anticipatory bail can be extended in favour of the applicant.

7. Accordingly, the anticipatory bail application is dismissed.

Sd/-

(**Goutam Bhaduri)**

Judge

Aashu/gouri