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HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A) No.97 of 2018

Nilanchal Pradhan, aged about 36 years, S/o Shri Panchu Pradhan, Caste Pradhan, R/o D.K. Builders, Judges Colony, Rajesh Garden, Numbel Chennai 77, Tamil Nadu (India)

---- Applicant

versus

State of Chhattisgarh through Collector, Korba, District Korba, Chhattisgarh

---- Respondent

For Applicant	:	Shri Vinay Pandey, Advocate
For Respondent	:	Shri Neeraj Sharma, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

24.4.2018

1. The Applicant is apprehending his arrest in connection with Crime No.102 of 2016 registered at Police Station Deepika, Korba for an alleged offence punishable under Sections 420, 467, 468, 471, 120, 34 and 201 of the Indian Penal Code.

2. Facts of the case are that Anjani Kumar, Income Tax Officer, Korba lodged a complaint before the jurisdictional police station alleging that in the year 2013-14 and 2014-15 the present Applicant who is a Chartered Accountant along with co-accused Suryakant Nahak, Simanchal Pradhan, Lalit Kumar, Bhagwan Gaud and Shah Nawaj Akhtar misguided the employees/tax-payers of the S.E.C.L. saying that if they file income tax returns through them, the excessive tax deducted from their income can be refunded to them. It is further alleged that the present Applicant manipulated the income shown in the Form-16 of the employees and showing their income to be

lesser filed their income tax returns and got credited refunds in the accounts of the employees from the income tax department and thereby he caused a loss of Rs.90 Lakhs to the income tax department. It is further alleged that out of the total refund of Rs.90 Lakhs, the Applicant and the co-accused received 30%–40% amount as commission.

3. Learned Counsel appearing for the Applicant submits that the Applicant works as a Chartered Accountant. The case prepared by the prosecution is hyper-technical. From perusal of the entire charge-sheet and the evidence collected so far by the prosecution, it reveals that there is nothing to show that the Applicant is involved in the alleged offence. So called commission has been given to other co-accused and they have been granted bail. It is further submitted that if refund has wrongly been claimed and has been credited into the accounts of the beneficiaries, the Applicant cannot be held guilty therefor. There is no actual loss caused to the income tax department. It is within the limits and power of the income tax department to recall the refund if it has wrongly been claimed by the employees/tax-payers and for that the income tax department is empowered and free to issue notice to the employees/tax-payers. It is further submitted that tax-payers are the actual offenders if any refund has been claimed by them because they have put their signatures on the returns and have received the refunds in their accounts. Therefore, it is prayed that the Applicant may be extended the benefit of anticipatory bail.

4. Learned Counsel appearing for the State/Respondent opposes the prayer for grant of anticipatory bail. He submits that *prima facie* there is sufficient evidence on record against the present Applicant. According to him, after filing of false returns and claiming refunds, 30%–40% amount of the total refund has been received from the employees/tax-payers by the Applicant along with other co-accused as commission. He prays for rejection of the bail application.

5. I have heard Learned Counsel appearing for the parties and perused the material collected so far with due care.

6. Taking into consideration the facts and circumstances of the case, the evidence collected so far by the prosecution against the Applicant and the submissions put-forth on behalf of the parties, I am not inclined to allow the application for grant of anticipatory bail.

7. Accordingly, the bail application is rejected.

Sd/-
(Arvind Singh Chandel)
JUDGE

Gopal