

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRCA No. 152 of 2018

Radheshyam Diwakar S/o Shri A.D. Diwakar Aged About 48 Years
Occupation Block Education Officer, Patthalgaon District (Revenue
And Civil) Jashpur Chhattisgarh, At Present Vivekanand Colony
Bilaspur Tahsil And District Bilaspur Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Sarkanda, District
(Revenue And Civil) Bilaspur Chhattisgarh

----Non-applicant

For Applicant	:	Mr. Umakant Singh Chandel, Advocate.
For Non-applicant/State	:	Mr. Shashank Thakur, Govt. Advocate
For Objector	:	Mr. Malay Shrivastava, Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

09/04/2018

1. The present is an application under Section 438 of Cr.P.C. seeking for grant of anticipatory bail to the applicant who is apprehending his arrest in connection with Crime No. 29/2018, registered at Police Station Sarkanda, District (Revenue & Civil) Bilaspur, Chhattisgarh for the offence punishable under Section 420 of Indian Penal Code.
2. The allegation against the present applicant as per the prosecution case is that the present applicant is said to have charged Rs.10 lakhs from the complainant Subhash Shrivastava on the ground of providing government employment to the wife and sister-in-law of the complainant and another friend of the complainant. It is alleged that the assurance and the receiving of the money by the present applicant took place in the year 2012 and the F.I.R. now has been lodged on 12.01.2018.

3. The counsel for the applicant submits that it is a false and fabricated case, which has been lodged against the applicant. He submits that there was no complaint whatsoever in between the year 2012 to 2018 and suddenly now the present applicant has been implicated in the instant case. He further submits the present applicant is a government employee and in the event, if the present applicant is arrested, there is all possibilities that the present applicant may lose his employment and ultimately if the complaint is found to be false, he would be put to irreparable loss and given the said circumstances, the present applicant may be granted the benefit of anticipatory bail.
4. The counsel for the State opposing the bail application submits that it is not the complainant Subhash Shrivastava alone from whom the applicant received money, but there are other persons as well from whom the present applicant had received money in the garb of providing employment. There are three more F.I.Rs. which have been lodged against the present applicant as is reflected from the documents enclosed along with the objection filed by the complainant Subhash Shrivastava. That for all these reasons, the counsel for the State as well as the Objector pray for the rejection of the anticipatory bail application.
5. Having heard the contentions put forth on either side and on perusal of record and also considering the submissions what reflects is that the alleged transaction which is said to have transpired between the present applicant and the complainant was about six years ago. For six years in between inspite of the fact that the present applicant could not provide employment to any person, there has been no

complaint and suddenly after six years the present F.I.R. has been lodged.

6. Another fact which cannot be lost sight is that though it is alleged by the Objector in the year 2016, the present applicant is said to have issued a cheque to the complainant Subhash Shrivastava, but the said cheque could not be encashed on account of stop payment instructions provided by the present applicant. In spite of that the complainant in the year 2016 did not think it fit to file an F.I.R. against the present applicant, neither has the complainant taken steps for prosecuting the present applicant for an offence under Section 138 of the Negotiable Instruments Act.
7. Given the aforesaid factual matrix of the case and also the situation as stipulated in the preceding paragraphs and also considering the aspect that the present applicant is a government employee, this Court is of the opinion that prima facie a strong case is made out for grant of anticipatory bail.
8. Accordingly, the present application under Section 438 of Cr.P.C. is allowed. It is ordered that in the event of arrest of the Applicant in connection with Crime No. 29/2018, registered at Police Station Sarkanda, District (Revenue & Civil) Bilaspur, Chhattisgarh for the offence punishable under Section 420 of Indian Penal Code, if he furnishes a personal bond for a sum of **Rs.25,000/- with one surety** of the like amount to the satisfaction of the concerned arresting/investigating officer or the Court concerned, as the case may be, then he shall be released on bail on the following further conditions :

- (i) that the applicant shall make himself available for interrogation before the concerned 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 him/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 him by the said Court till disposal of the trial.

Sd/-
(P. Sam Koshy)
Judge