

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 180 of 2018**

Piyush Kumar Soni S/o Shri Mannulal Soni Aged About 37 Years R/o.-
Village And Post Office Beltara, Via Pali P.S. Ratanpur District - Bilaspur
(C.G.), District : Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through- Police Station Incharge Ratanpur District
Bilaspur (C.G.), District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Suresh Pandey, Advocate.
For the Respondent/State : Ms. Smita Ghai, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****13.07.2018**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.

2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 378 of 2017, registered at Police Station – Ratanpur, District – Bilaspur, Chhattisgarh for the offences punishable under Section 420/ 34 of the Indian Penal Code and Sections 3 and 7 of the Essential Commodities Act.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The applicant received charge of PDS shops at village Salkha, Branch Beltara on 29.12.2016 and on verifying the stock, a

shortage of 1.28 quintals of rice, 2.78 quintals of sugar and 11.84 quintals of salt was found. Hence, the panchanama was prepared to this effect in presence of panchas. It is submitted that the entries of all the distribution were given in the tablet or mobile, but the same were not provided to the applicant and on number of occasions an intimation was made to the President of the Cooperative Society regarding non-receipt of tablet and mobile. In fact, the defalcation that has been found has been committed was previous to the charge taken over by the applicant for which he is not responsible. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the statements of the witnesses show that the applicant received the mobile and tablet and the defalcation has been committed subsequent to his taking charge. Hence, he is not entitled for grant of anticipatory bail.

5. Heard counsel for both the parties and perused the case diary.

6. According to the case against the applicant, Food Inspector has lodged a complaint against the applicant that on an inspection made on 29.12.2016 in the PDS shop, in which the applicant is a Manager and on verifying, a shortage of 1.28 quintals of rice, 2.78 quintals of sugar and 11.84 quintals of salt worth Rs.4,00,000/- was found. It was also found that there are entries about distribution to such beneficiaries who are already dead, hence, this case.

7. Considered the material present in the case-diary. The allegation made by the applicant about the shortage found during taking over charge of the said shop and also about the non-receipt of the tablet and the mobile on which all the entries and distribution are made in the PDS shops needs examination during investigation. For the present, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of anticipatory bail.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the Officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. He shall also abide by the following conditions:

- '(i) that the applicant shall make himself available for interrogation before the 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 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/-

(Rajendra Chandra Singh Samant)
Judge