

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 1971 of 2018

Kundan Kumar Banjare S/o Kamta Prasad Banjare Aged About 38 Years R/o- Village Bhothali, Post- Fardfaud, Tahsil- Arang, District- Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through- Station House Officer, P.S.- E.O.W/anti-Corruption Bureau, District- Raipur, Chhattisgarh.,

---- Respondent

For applicant - Shri Vivek Sharma, Advocate.
For Respondent/State –Shri Ashish Shukla, Dy.A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order

24/04/2018

1. This is third bail application under Section 439 of Cr.P.C. The first bail application was dismissed on 16/06/2017 vide M.Cr.C. No.3660/2017 and second bail application was dismissed on 5/10/2017 vide M.Cr.C. No.5835/2017.
2. The applicant has preferred this application for grant of bail as he is arrested in connection with Crime No. 47/2016 registered in Police Station ACB, Raipur District Raipur (C.G.) for offence punishable under section 13(1)(e) and 13(2) of Prevention of Corruption Act, 1988 and section 109 & 120-B of IPC.
3. As per the prosecution case, search having been conducted in the house of the applicant and his father disproportionate property were found in the possession of the applicant. The applicant was appointed to the post of Mining Officer on 17/06/2008 and during search amount and different assets held by applicant were found which were over and above to the income derived from legal sources. During investigation it was found that Rs.38,19,220/- were earned by the applicant during his service

whereas he has spent Rs.1,80,47,748/- thereby Rs.1,42,28,528/- was found to be over and above the income. The different assets were in the name of mother, father and his brother. It is alleged that said assets were procured by applicant by misusing the capacity of public servant that of mining officer.

4. Learned counsel for the applicant submits that statement of three witnesses namely Rajendra Kumar, Nishant Jain and Shailendra Mishra have been recorded and they have not deposed against the applicant. He further submits that so far 34 witnesses have been examined and thereafter again list has been filed yesterday to examine more witness. It is stated when evidence of Shailendra Mishra was adduced, hard disk which was opened would show that fake entry have been made in the account book. He further placed his reliance in **2016 (4) C.G.L.J. 239** in between **Ravikumar Chouhan Vs. State of C.G.** and would submit that under the circumstances evidence of the witness who have been examined if do not disclose the case it would amount to changed circumstances. Learned counsel therefore submits that in view of this statement may be appreciated and the applicant may be released on bail.

5. Learned State counsel opposes the prayer for grant of bail.

6. The counsel was asked whether he is able to file any document to show that another list of witnesses were produced by prosecution on record or not? In answer to the suggestion, it was stated that the counsel is making statement at Bar so it should be believed. It is also stated that if such statement is found to be wrong the counsel is ready to suffer. So eventually the query of court was not satisfied. The proposition of like nature cannot be accepted in judicial proceeding. The court was also inclined to evaluate few statement of witness on record but vehement submission was made to consider the same while adjudicating the bail.

Perused the statement of Shailendra Mishra wherein he has categorically stated that he has given the account of K.B. Group from the computer in a pen drive wherein applicant Kundan Banjare account was opened by Nishant Jain in the name of K.B. Group wherein entire description of the transaction was recorded on 3/06/2016 and further deposits have been explained. He has further stated that according to the direction of the K.B. Banjare amount of Rs.35,000/- was being sent to the Brilliant Public School. Further statement of Nishant Jain PW-34 is perused. He has stated that applicant has deposited Rs.75 lakhs on different dates with him wherein he opened the account in the name of K.B. Group and entire transaction were saved in pen drive. Nishant Jain witness has further stated that Rs.45 lakhs were also seized by the ACB which belong to the applicant and one Innova car also has been stated to be in his name. Therefore, considering the statement, I am not inclined to entertain this third bail application.

7. Accordingly, the third bail application is dismissed.

Sd/-

(Goutam Bhaduri)

JUDGE