

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 239 of 2018**

Girish Sharma, S/o. Narayan Prasad Sharma, Aged About 33 Years,
Society Manager Of Sewa Sahkari Samiti Maryadit, Gandai, R/o.- Ward
No. 05, Pandariya, Gandai, Thana Gandai, Tahsil- Chhooikhadan, District-
Rajnandgaon, Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through- Police Station- Gandai, District-
Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant : Ms. Sharmila Singhai & Mr. Sanjay Agrawal,
Advocates

For Respondent/State : Mr. Anupam Dubey, Dy.Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****04/05/2018**

1. Apprehending arrest in connection with Crime No.33/2018, registered at Police Station – Gandai, District – Rajnandgaon (C.G.) for offence punishable under Section 420, 409 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. The applicant had been incharge of the paddy collection center at Gandai in which a fire broke out, because of which some loss of stock has occurred. On 29.01.2018, an inspection was made by the other

authorities of Jila Sahkari Kendriya Bank Maryadit, Gandai and the shortage was recorded and the note was appended that counting of burnt bags containing paddy could not be made. Similarly, the Chief Executive Officer of Jila Sahkari Kendriya Bank Maryadit, Rajnandgaon has given information of the loss to the applicant in which no allegation has been made against him. Later on FIR has been lodged by Sub-Registrar on 12.02.2018 because of which, there is apprehension. Therefore, it is prayed that the applicant may be extended the benefit of Section 438 of Cr.P.C.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that the applicant had defalcated and embezzled the paddy that was stored in the paddy collection center and to cover up the loss due to embezzlement, the incident of fire was organized by the applicant, which is reflected from the report given by the enquiry committee. On the basis of the report given by the electricity department, that the fire that broke out was not possible due to short circuit of electricity line. It is also submitted that applicant is not co-operating with the investigation and he has criminal antecedents having been prosecuted for the offence under Section 376 of the Indian Penal Code. Therefore, it is prayed that the applicant may not be released on anticipatory bail.
4. In reply, counsel for the applicant submits that the applicant has been acquitted of the charge in the case of prosecution under Section 376 of I.P.C. and it is also submitted that the incident of fire was organized by this applicant is a story without any support of evidence.

5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. According to case against this applicant, on the intervening night of 28-29.01.2018 a fire was broke out in the Krishi Upaj Mandi, Gandai. An inspection was made on 29.01.2018 by a committee of authorities, in which loss was reported but subsequently the complaint was filed on 12.02.2018 by Sub-Registrar, Cooperative Societies, Rajnandgaon alleging that this applicant has committed offence of embezzlement with respect to the shortage that was found in the inspection and the enquiry made by the committee, hence this case.
7. Considered the submissions made and the contents of the case diary. It is not denied that fire had broken out on the intervening night on 28-29.01.2018 and it was subsequent to that all the inspection and enquiry has been made and shortage has been found. The applicant has an explanation in this respect that shortage was due to fire accident, whereas, the complainant party has leveled allegation against the applicant holding him responsible. The explanation offered by the applicant can not be ruled out totally and it is to be examined in the investigation and the trial, after the charge-sheet is filed in this case. Looking to the facts and circumstances of the case, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
9. 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. The applicant 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/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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram