

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRCA No. 407 of 2018

Harish Pandey S/o Late Jairam Pandey Aged About 56 Years R/o-
House No. 340, Panchwati Nagar, Mowa, Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, P.S. Anti
Corruption Bureau, Raipur, Chhattisgarh.

----Non-applicant

For Applicant	:	Mr. Kanak Tiwari, Senior Advocate along with Ms. Richa Shukla, Advocate
For Non-applicant/State	:	Mr. Shashank Thakur, Govt. Advocate

Hon'ble Shri Justice P. Sam Koshy

Order on Board

26/04/2018

1. The present is a third 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. 38/2010, registered at Police Station Anti-Corruption Bureau, Raipur, Chhattisgarh for the offence punishable under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988.
2. The first bail application i.e. MCRCA No. 329/2017 was rejected by this Court vide order dated 10.05.2017 and the second bail application i.e. MCRCA No. 1077/2017 was disposed off vide order dated 27.02.2018.
3. The allegation against the present applicant as per the case of prosecution is that during the course of a raid which was conducted at the residence of the present applicant on 08.09.2010, he was found to be in possession of wealth, much beyond his lawful source of income. The charge sheet in the instant case has been filed on 20.12.2016.
4. The Senior counsel appearing for the applicant along with Ms. Richa Shukla, advocate submits that it is a case where though the raid was

conducted in the year 2010 and till now i.e. in the year 2018, the prosecution agency never thought it fit for arresting the applicant, that itself shows that there was no need of a custodial interrogation of the present applicant. He further submits that once when the charge sheet itself has been filed, no further purpose would be served in taking the applicant into custody, which otherwise could be detrimental at this stage to his service career. He further submits that the applicant as such has got only around two years of service left. He further submits that the present applicant is willing and undertakes to provide all necessary cooperation to the prosecution agency and he shall appear before the authorities as and when called for rendering full assistance to the investigating agency and he shall not in any manner abscond or shall try to influence any of the authorities or witnesses and thus prayed for grant of anticipatory bail.

5. Opposing the application, the counsel for the State submits that it is a case where the present applicant had shown an attitude of non-cooperation, right from the first instance, in as much as though the raid was conducted on 08.09.2010 and he was granted Form-1, 2 and 3 on the very next date to be filled up disclosing the different sources of income and the sources, from which he had accumulated the wealth, which were detected during the course of raid, but till date there was no any assistance or cooperation from the side of the applicant and therefore he does not deserve bail.
6. Considering the total facts and circumstances of the case, particularly the fact that the prosecution agency for last 8 years had not arrested the applicant, moreover the applicant being a government servant working as a Class-I officer in the Forest Department of the State of

Chhattisgarh has been discharging his duties shows that the applicant has not absconded at any point of time.

7. Given the factual matrix of the case and also taking note of the age of the applicant and the stature of the applicant, this Court is of the opinion that prima facie a fit 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. 38/2010, registered at Police Station Anti-Corruption Bureau, Raipur, Chhattisgarh for the offence punishable under Section 13(1)(e) read with Section 13(2) of the Prevention of Corruption Act, 1988, 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