

HIGH COURT OF CHHATTISGARH, BILASPUR

WPCR No. 350 of 2018

Navjeet Singh Tuteja, S/o. Amrik Singh Tuteja, Aged About 42 Years,
R/o. Pandari, Raipur, District Raipur, Chhattisgarh

--- Petitioner

Versus

1. State Of Chhattisgarh, Through The Secretary, Home Department, Mantralaya, Mahanandi Bhawan, New Raipur, District Raipur, Chhattisgarh
2. Director General Of Police, Police Head Quarter, Raipur, District Raipur, Chhattisgarh
3. Inspector General Of Police, Raipur Range, Raipur, District Raipur, Chhattisgarh
4. Superintendent Of Police, Raipur, District Raipur, Chhattisgarh

-- Respondents

For Petitioner : Smt. Hamida Siddiqui, Advocate

For Respondents : Shri Sangharsh Pandey, Dy. Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

10.08.2018

1. The present petition is filed on the following relief :

(I) *That, this Hon'ble Court may kindly be pleased to direct the respondent police authority to constitute Special Investigation Team for the investigation in the matter of money transaction against the petitioner and his business partner/ individual.*

(ii) *That, the respondents be also be directed to initiate the proceeding under Section 41(A) of Cr.P.C. before any kind of arrest etc.*

(iii) *That, the respondents be directed to do proper investigation in the matter as it is a civil transaction and petitioner is not running for his liability if any.*

(iv) *Any other relief, which this Hon'ble Court may deem fit and proper, may also be passed in favour of the petitioner together with cost of the petition.*

2. Learned counsel for the petitioner submits that the petitioner has obtained different loan amount to invest the same in his business for which the regular audit was also conducted and as many as 15 complaints have been made. It is contended that the petitioner is not running away from the liability and it is the matter of business transaction, therefore, the police may be directed to follow the provisions of Section 41-A of Cr.P.C. to explain his conduct before the police.
3. Learned State counsel vehemently opposes the same and would submit that according to the petitioner itself from 138 persons on some pretext or other the money was taken and the anticipatory bail application is also dismissed in few of the cases.
4. Plain reading of Section 41-A of Cr.P.C. would show that entire power is vested with the police whether in all cases arrest of the person is required or not. The High Court in exercise of power under Section 482 of Cr.P.C. cannot substitute such discretion vested to the police officer whether to arrest a person or not, it depends from all the facts to facts on each circumstances and no blanket proposition can be laid down. It is expected that the police shall follow the provisions of Section 41-A of Cr.P.C.
5. In view of the above, the petition stands disposed of.

Sd/-
(Goutam Bhaduri)
Judge