

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 860 of 2018**

Prakash Chandra Kori S/o Late G P Kori Aged About 45 Years Presently
Posted As Deputy Collector, Personal Secretary, Ministry Of Water
Resources Department Shankar Nagar Raipur District Raipur Chhattisgarh.

---- Applicant**Versus**

1. State Of Chhattisgarh through The Station House Officer Police Station -
Bilha, District Bilaspur Chhattisgarh., District : Bilaspur, Chhattisgarh
2. Dharmendra Tiwari S/o Late Krishna Kumar Tiwari , R/o Imlipara Near Bus
Stand Bilaspur Tahsil And District Bilaspur Chhattisgarh., District : Bilaspur,
Chhattisgarh

---- Respondents

For the Applicant : Shri Goutam Khetrapal, Advocate.
For the Respondent/State : Shri Anupam Dubey, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****28.08.2018**

1. Respondent No.2 – Dharmendra Tiwari, complainant in this case has not appeared before this Court and he has not represented by any counsel though notices have been served upon him.
2. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.
3. 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 Complaint Case No. 619 of 2015, registered at Police Station – Belha, District – Bilaspur, Chhattisgarh for the offences punishable under Sections 467, 468, 471, 472 and 420/ 34 of the

Indian Penal Code.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The allegations made against the applicant are totally false, baseless and not supported with any evidence. The applicant in capacity of Naib Tehsildar has passed an order of mutation in favour of co-accused - Sadashiv according to the facts and material presented before him and also according to the status of the revenue records as existing prior to passing of that order. No case is made out against the applicant. 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.

5. The complainant had been afforded an opportunity to give appearance and oppose the application which he has not availed.

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

7. On perusal of the certified copy of the complainant filed against the applicant by complainant – Dharmendra Tiwari and also on perusal of the documents that are present on record, I am of this view that the applicant had acted in capacity of Naib Tehsildar in passing the mutation order which could have been challenged before the superior authority. Hence, for these reasons, 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. 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 them 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