NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A) No. 1080 of 2018

Sudhir Tiwari S/o Late Shri Shankar Tiwari Aged About 42 Years R/o Ward No. 07, Bemetara, P. S. And Tehsil Bemetara, District Bemetara Chhattisgarh, District : Bemetara, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Bemetara, District Bemetara Chhattisgarh, District : Bemetara, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Anish Tiwari, Advocate.
For the Respondent/State	:	Shri Ashok Swarnakar, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

ORDER

25.09.2018

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.

2. 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 Crime No. 396 of 2018, registered at Police Station – Bemetara, District – Bemetara, Chhattisgarh for the offences punishable under Sections 420 and 409 read with Section 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 actual culprits have been left and the applicant has been made to come to this Court only on the basis of

suspicion. According to the material present in the case-diary, no case is made out against the applicant. In the earlier audit reports of the year 2015-2016, the auditor had given a clear report that all the transactions entered in the accounts register were up to date and the audit certificate was also granted accordingly. 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. It is submitted that on a special audit made in the Jila Sahakari Kendriya Bank Maryadit at Kusmi and Mohrenga it was found that during the period from 2014-15 to 2016-17, the applicant has embezzled an amount of Rs.91,44,157.17/-. The amount which he received from the farmers towards payment in KCC Loan, has not been deposited in their bank accounts and thus, misappropriated. Hence, there may be requirement of custodial interrogation of the applicant and no case is made out for grant of anticipatory bail to the applicant.

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

6. Nodal Officer of Jila Sahakari Kendriya Bank Maryadit, Durg, District Bemetara stating that in the special audit conducted for the Jila Sahakari Kendriya Bank Maryadit, Kusmi and Mohrenga it was found that the applicant was the Manager of both the societies and he during his tenure from 12.11.2014 to 27.10.2017 embezzled an amount of Rs.98,45,139.17/-. On the basis of which, FIR has been lodged in this case.

7. Considered the material present in the case-diary. The audit report on which the applicant relies is now disputed and the special audit that has been made subsequently which is supported with the facts and figures in the form of documentary evidence. Hence, no case is made out for grant of anticipatory bail to the applicant. Considering that the amount of defalcation in this case is huge and also there may be requirement of custodial interrogation in this case, I do not feel inclined to grant anticipatory bail to the applicant.

8. Accordingly, the bail application filed under Section 438 of the Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi