

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1321 of 2018

- Kiran Diwakar Kulkarni S/o Shri Diwakar Kulkarni, Aged About 53 Years, R/o HIG- II /75, HUDCO, Bhilai, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station- Bemetara, District- Bemetara, Chhattisgarh., District : Bemetara, Chhattisgarh

----Non-applicant

For Applicant – Shri Anurag Dayal Shrivastava, Advocate.
For Non-applicant/State – Shri Anil Shukla, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

10-10-2018

1. Apprehending arrest in connection with Crime No.155 of 2017, registered at Police Station – Bemetara, District- Bemetara, Chhattisgarh for offence punishable under Section 420, 467, 468, 471 of the IPC, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. It is true that this applicant is one of the Director of M/s. Kulkarni and Sahu Buildcon Pvt. Ltd. and the work order of construction of road was given by CG Rural Road Development Agency, according to the rules and procedures the bills were submitted for clearance in which the royalty payment clearance certificate also attached, which on scrutiny was found to be forged, because of which, the FIR has been lodged against the company and not personal against the applicant. It is further submitted that this applicant was not the Managing Director of the company and co-accused Harishankar Sahu was the Director and the person who was executing the contract. In fact, this incident took place because of the defalcation made by the Cashier, Surendra Kumar Choudhari against whom a complaint has been given by the company of this applicant. Further, it is also submitted that

immediately after coming to know about the submission of the forged royalty clearance certificate the company wrote to the concerned department to deduct the royalty loss from the security amount deposited for the contract work and which has been accordingly deducted, regarding which documents are submitted along with this application. Hence, it is prayed that this applicant may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application.

4. Heard learned counsel for the parties and perused the case diary.

5. The allegation against this applicant and the co-accused persons is this, that, for clearance of bills for the work done in the road construction work the company submitted forged royalty clearance certificate for an amount of Rs. 7,69,374/- on one occasion and received the payment against that royalty. When the forged clearance certificate was again filed along with the bill, that was found to be forged in the scrutiny made by the department. Hence, the FIR has been lodged in this case.

6. Considering on all the material present in the case diary and for the reasons that the loss caused to the mining department has been made good by the company and this applicant is not the Managing Director of the company, I feel inclined to allow this application.

7. Accordingly, the anticipatory bail application is allowed. 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.

8. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge