

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC(A) No. 1361 of 2018**

Murarilal Sundarani S/o Late Shri Manghirmal Sundrani Aged
About 67 Years R/o House No.C/89, Sector -4 Devendra Nagar
Raipur, District : Raipur, Chhattisgarh --- **Petitioner**

Versus

State of Chhattisgarh through the State Economic Offence
Investigation & Anti Corruption Bureau Raipur Chhattisgarh.,
District : Raipur, Chhattisgarh --- **Respondent**

For the applicant : Mr. Y. C. Sharma, Advocate.
For the State : Mr. D. R. Minj, Dy. Govt. Adv.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****14.11.2018**

1. Apprehending arrest in connection with Crime No. 44 of 2015 registered by State Economic Offence Investigation and Anti Corruption Bureau, Raipur, Chhattisgarh for the offences punishable under sections 420, 467, 468, 471, 428 & 120-B of IPC & Section 13(1)(D) & 13(2) of the Prevention of Corruption Act, the applicant has filed this application u/s 438 of the Code of Criminal Procedure.
2. The present petition has been preferred on medical ground. Earlier, the first bail application was dismissed on 18.01.2017. The second one was dismissed on 20.09.2017 and the third one was dismissed as withdrawn on 13.04.2018 with liberty to file afresh a better constituted petition.
3. As per the prosecution case, the applicant and other accused are partners of M/s. Sundrani Construction

Company. They were awarded the work for construction of Bridge over Arpa river at Koni-Mangla-Bilaspur Road. The agreement was executed between the State and the applicants. The work started in the year 2005. The completion of job was made in the year 2007 and the competent authority also certified that the work done by the applicants were very good. The work was for construction of bridge with 11 piers that is the bridge polls were to be constructed and with each pier underground piles was to be made. The said work was being supervised on behalf of the Government by S.C. Khandelwal, Executive Engineer, P.S. Chandel and R.K. Verma.

4. While such work was being carried out during inspection it was found that certain piers were completely damaged. The steel liners were also absent over the concrete bed which were to give support to the pillars and in absence of steel lining, the works had caused damage to the concrete to the extent of 50-60%. The further test was directed by modern method of Ultra Sound Pulse Velocity about the quality of concrete wherein it was found that Piers No. 2, 3, 5, 6, 7, 8, 9, 10 & 11 except Piers 1 & 4 were without proper steel liner. The liner though was used over the exposed part of the river bed, but in lower part of the pier which found support at the rock below the river bed to form the base the steel lining was completely missing. It is, therefore, the case of prosecution that the applicants along-with officers of the Public Works Department, prepared the

forged document to show that the basement work has been carried out according to the drawing and severe deviation from technical specification was made in construction, consequently the repair work had to be carried out almost equal to the cost/expenditure incurred and as such the applicants in connivance with the officers of the department extended undue benefit to each other.

5. Learned counsel for the applicant would submit that the applicant who is aged about 67 years has suffered heart disease and various other ailments which would be evident from the certificates issued by Dr. Satish Suryavanshi (Sr. Consultant Cardiologist) of IVF Research Center and Rama Krishna Care Hospital and Dr. Pankaj Dhabalia & Dr. Girish Agrawal of Rama Krishna Care Hospital. It is submitted that because of ailments the applicant was frequently admitted to hospital and his case was diagnosed as coronary artery disease and was advised to undergo operation of coronary angiography. It is stated that he was admitted in Hospital on 18.09.2018 with complaint of chest pain and was discharged on 22.09.2018. Likewise Dr. Girish Agrawal has opined that the applicant is suffering from bronchial asthma and is uncontrolled with frequent mild to moderate exacerbation. Dr. Pankaj Dhabalia has given his opinion that he is suffering from chronic cervical spondylosis, vertigo, hypertension, asthma and fatty liver. It is further submitted that even during the pendency of this petition, the appellant was admitted to hospital on

10.11.2018 with complaint of restroternal chest pain as he suffered coronary disease and acute coronary syndrome and was advised to immediately undergo coronary angiography.

6. Learned counsel for the applicant further submits that the State has categorically submitted before the Court in Cr.M.P.No.1798/2017 that custodial interrogation would not be required. Under the facts and circumstances of the case, no purpose will be served to arrest the applicant as it may lead to heart attack which may result in life danger and instead of arresting the applicant at this juncture, if the applicant is released on bail he may face the criminal case for which the charge sheet has been filed. Consequently under the circumstances, the applicant may be enlarged on bail.
7. In view of various medical documents annexed to the petition, the State was directed to verify the certificates issued by 3 doctors. The State Government came out back and endorsed the certificates and filed the reports of the doctors separately i.e., Dr. Satish Suryavanshi of SMC Heart Institute and IVF esearch Center and Dr. Pankaj Dhabalia and Dr. Girish Agrawal of Rama Krishna Hospitals. On enquiry and verification of those reports, the State has affirmed that the certificates so issued are genuine as in all the certificates/letters the Doctors have addressed to the Superintendent of Police, Economic Offence Wing, Raipur and gave their opinions/reports in reply to the letters of Bureau that the applicant is suffering from various ailments.

8. Perused the respective certificates. The certificate given by Dr. Pankaj Dhabalia dated 21.03.2018 shows that the applicant is undergoing treatment for the ailment of Cervical Spondylosis, Vertigo, Hypertension, Asthama and Fatty Liver. Likewise, Dr. Girish Agrawal who has treated the applicant also certified that the applicant Murari Sundrani is suffering from bronchial asthma which is uncontrolled with frequent mild to moderate exacerbations. The doctor further opined that the applicant requires constant supervision as his Asthma suddenly gets precipitated.
9. Various prescriptions issued by Dr. Satish Suryavanshi of SMC Heart Institute and IVR Research Center are also attached to the bail petition to show that the applicant is also victim of coronary problems. Dr. Satish Suryavanshi has stated that the applicant was admitted in hospital on 18.09.2018 for chest pain and was discharged on 22.09.2018 and it is a case of systemic hyper tension, dyslipidemia. During the course of hearing the instant bail petition, another document was filed of SMC Heart Institute which shows that the applicant was admitted in Hospital on 10.11.2018 with complaint of restroternal chest pain and he is known case of coronary artery disease.
10. The State was further asked to verify the authenticity of the same. The letter addressed by the Station House Officer along-with the letter of Dr. Satish Suryavanshi of SMC Heart Institute and IVF Research Center again affirms the fact that the applicant was admitted to

hospital and the certificate shows that it was case of coronary artery disease, acute coronary syndrome and the applicant was advised to undergo the operation of coronary angiography and he was discharged on his own request for further treatment. It has also been stated that the applicant has been discharged to take further treatment in the higher medical center. The medical prescriptions are also attached.

11. The case diary is placed on record. It suggests that after 15.09.2016 no enquiry has been made. It is completely silent about the fact that after 15.09.2016 whether any requirement of custodial interrogation existed or not. The case diary also do not suggest that any measures were taken to follow up the applicant if he tried to evade the arrest or any further investigation was carried out by the State as the case diary was uptill 15.09.2016 only. The fact remains that the applicant was not arrested.
12. Under the circumstances there is no space to suspect the medical certificates issued by the doctors and affirmed by th State on enquiry on two occasions. Since the bail has been sought for on medical ground, which is verified by the State on the basis of reports given by different team of doctors and also verified by the State and further considering the nature of disease as has been projected and the fact that the State has made a categorical submission in Cr.M.P. No. 1798/2017 which was filed by the applicant along-with other co-accused to quash the proceeding that no custodial interrogation would be required, I am inclined to allow this bail

application.

13. Accordingly, the 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 officer arresting him or the concerned Investigating Officer. The applicant shall also abide by the following conditions :-

- (i) that he shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that he 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 any police officer;
- (iii) that he shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE