

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No. 1090 of 2017**

- Gorelal Thakur S/o Late Ramdhin Singh Thakur, Aged About 57 Years, R/o Shivesh Sadan in front of balaji Temple, Main Road Kota, Raipur Chhattisgarh , Chhattisgarh

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Economic Offences Wing / Anti Corruption Bureau Raipur Chhattisgarh, Chhattisgarh

**---- Non-applicant**

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For Applicant – Shri Kanak Tiwari, Senior Advocate with Shri Varun Sharma, Advocate.

For Non-applicant/State – Shri Anil S. Pandey, Govt. Advocate.

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

**Order on Board**

**07-02-2018**

1. Apprehending arrest in connection with Crime No.03/2016, registered at Police Station – State Economic Offences Wing / Anti Corruption Bureau Raipur Chhattisgarh for offence punishable under Section 13(1)(e) read with 13(2) of the Prevention of Corruption Act, 1988, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in this case. Charge sheet has been filed after completion of the investigation. The applicant had approached this Court earlier by filing WPCR No.302/2017, in which, this Court directed the concerned court to issue bailable warrant for appearance of the petitioner and on his filing application for bail to consider the same, in view of the observation made in the concerned order. Liberty was also given to the applicant to file application for anticipatory bail before the concerned court, but the same has been rejected arbitrarily. It is submitted that no case is made out against the applicant on the basis of the material present in the prosecution case.

Numerous discrepancies can be pointed out in the prosecution case, but the salient features are these that, the check period mentioned in the investigation of the charge sheet are different, the informant of the case and investigator of the case are the same person. This practice has been deprecated by Hon'ble the Supreme Court in various decisions. It is further submitted that the validity of the sanction is also a ground which the applicant is keen to raise in trial against him. It is submitted that the applicant is a public servant, he has never been placed under suspension and he had never tried to tamper or influence the investigation of the case against him. The applicant is keen to participate in the trial against him. Hence, for these reasons, it is prayed that he may be granted anticipatory bail.

On behalf of the applicant reliance has been placed on the judgment of Hon'ble the Supreme Court in the matter of **Shri Gurbaksh Singh Sibbia and Others Versus State of Punjab**, reported in (1980) 2 SCC 565, in which it was held that blatantness of corruption in a case cannot be assessed at this stage of anticipatory bail.

Further, reliance has been placed on behalf of the applicant on the judgment of Delhi High Court in the matter of **Court on its own motion vs. Central Bureau of Investigation**, reported in 109 (2003) DLT 494 wherein it has been held that an accused who has not been arrested during investigation and neither has been produced in custody is itself sufficient ground to release him on bail.

Therefore, it is prayed that the applicant may be benefited with grant of anticipatory bail.

3. Learned counsel for the non-applicant/State opposes the application and submission. It is submitted that the applicant in capacity of public servant has amassed immense wealth to the tune of Rs.2,18,88,879/- found in possession of the applicant, which was found to be 173% disproportionate to

his known and valid sources of income. Hence, the case for prosecution is made out against him, because of which he is not entitled for grant of anticipatory bail.

4. I have heard the learned counsel for the parties and perused the case diary.

5. The applicant was originally posted as Executive Engineer in Chhattisgarh Tourism Board and thereafter he was posted on deputation in Indira Gandhi Krishi Vishwavidyalaya. A raid was conducted by Anti-Corruption Bureau Raipur, in the residential premises of this applicant on 15-01-2016. After preparing inventory of the articles found in his residence, FIR was lodged. Investigation has been completed and charge sheet has been filed against this applicant for prosecution against him.

6. Considered on the submissions made and contents of the case diary.

7. In the present circumstances of the case, investigation is completed and there is no requirement of any custodial investigation of this applicant, further, the applicant was always available but he was not arrested. There is no such report that the applicant has misused his position or influenced the investigation of the case against him. Taking into consideration all these facts, I am of this view that the applicant should be benefited with grant of anticipatory bail in the present matter.

8. 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.

9. Certified copy as per rules.

Sd/-  
**(Rajendra Chandra Singh Samant)**  
**Judge**