

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No.1126 of 2017**

Kamal Kishor Singh Thakur (wrongly mentioned as Kamal Kishor Thakur in the impugned order) S/o Siddheshwar Singh Thakur, aged about 54 years, R/o Chhal, P.S. - Chhal, Distt. Raigarh, Present Address P.H.E. Colony, Raigarh, Distt. Raigarh (CG)

-----Applicant

Versus

State of Chhattisgarh, through S.H.O. Police Station-Chakradharnagar, Distt. Raigarh (CG)

---- Non-applicant

For Applicant	:	Mr.Awadh Tripathi, Advocate
For Non-applicant	:	Mr.D.R.Minz, Dy.Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

05/03/2018

1. Apprehending arrest in connection with Crime No.179/2016, registered at Police Station-Chakradharnagar, District-Raigarh (CG), for the offence punishable under Sections 420, 467, 468, 371 and 120B of the IPC and Section 13(1) read with Section 13(2) (D) of the Prevention of Corruption Act, the applicant has filed this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. Case of the prosecution, in brief, is that the applicant on 7.7.2014 while working as Chemist in the Department of Public Health and also holding the charge of Technical Assistant prepared a tender notice relating to construction of boundary-wall and without publication of the said tender notice in two newspapers awarded the work to other co-accused persons and thereby committed the aforesaid offences.

3. Learned counsel for the applicant would submit that the applicant is Chemist and he was by that time also holding the charge of Technical Assistant, he has prepared the tender notice and submitted to Karan Singh Karasolia, Executive Engineer whose duty to publish in the newspapers and thereafter award the work. The applicant is neither competent authority to issue tender notice nor even awarded the work, therefore, he is not made liable. He would further submit that the applicant is continuously working on the said post, therefore, he be granted anticipatory bail.
4. On the other hand, learned Deputy Government Advocate for the State would oppose the bail application and submit that the applicant is also instrumental in awarded work to other co-accused persons without following proper and due procedure of law.
5. I have heard learned counsel for the parties and perused the case diary.
6. It is not in dispute that tender notice has been published by the authority of Executive Engineer and work order has also been granted pursuant to the order by Karan Singh Karasolia and payment has also been made by the said authority and merely the applicant has assisted in preparing tender notice. Taking into consideration the nature and gravity of the offence, role of the present applicant in crime in question and the fact that the applicant is in service and still performing his job, this Court is inclined to extent the benefit of anticipatory bail in favour of the applicant.

7. Accordingly, this application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offences, he shall be released on bail by the officer arresting him on his executing a personal bond in the sum of ₹ 25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating/Arresting Officer. The applicant shall also abide by the following conditions:-

- (i) that he shall make himself available for interrogation before the concerned Arresting/Investigating Officer as and when required;
- (ii) that he shall not, directly or indirectly, make any inducement, threat or promise to the 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 he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he shall also appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

(Sanjay K. Agrawal)
JUDGE

B/-