

HIGH COURT OF CHHATTISGARH, BILASPURM.Cr.C.(A) No.146 of 2019

Virendra Kumar Upadhyay, S/o Late Shri Radheshyam Upadhyay, aged about 40 years, Caste Brahman, R/o Akhrabhatha Ward No.10, PS and Tahsil Sakti, District Janjgir-Champa (CG)

-----Applicant

Versus

State of Chhattisgarh, through the District Magistrate, District Janjgir Champa (CG)

---- Non-applicant

For Applicant	:	Mr.Shashank Thakur, Advocate
For Non-applicant	:	Mr.S.K.Agrawal, Government Advocate

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

22/02/2019

1. Apprehending arrest in connection with Crime No.365/2014, registered at Police Station-Dabhra, District-Janjgir Champa (CG), for the offence punishable under Sections 409, 420, 467 and 468 read with Section 34 of the IPC, 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 in the year 2014-15, an amount of ₹ 69,24,000/- was sanctioned for total seven work in Gram Panchayat, Jharra under the Mahatma Gandhi National Rural Employment Guarantee Act (MNREGA). On a complaint, an enquiry was conducted, wherein it was found that there is difference in actual work as well as the payment mode with respect to the same and

valuation is in higher side resulting in defalcation of amount of ₹ 21,98,288/- and thereby committed the offences.

3. Learned counsel appearing for the applicant would submit that the applicant was working as Data Entry Operator on contractual basis and he has no connection with the project works on the ground level under the MNREGA and as per work distribution order dated 24.2.2014 (Annexure A-2), the applicant was given the work of complaint/RTI/Time Limit/maintaining office records, as such, second enquiry report submitted on 2.9.2014 does not indicate that the applicant was involved at any level and Sukmati Sidar whose anticipatory bail was rejected by this Court was Secretary of Gram Panchayat, as such, his case is distinguishable from the case of Sukhmati Sidar. The present applicant was only Data Entry Operator and has left the service. Therefore, he is entitled for grant of anticipatory bail.
4. On the other hand, learned Government Advocate for the State would oppose the bail application and submit that the applicant is not entitled to privilege of anticipatory bail.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, role attributed to the present applicant and he was only Data Entry Operator on contractual basis, considering the work distribution order dated 24.2.2014, his case being distinguishable from the case of Sukmati Sidar, whose anticipatory

bail was dismissed as withdrawn as she was Secretary of Gram Panchayat in which an amount of ₹ 21,98,288/- is said to have been defalcated, 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/-