

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 322 of 2019

- Tulsi Ram Yadav, S/o Laxman Singh Yadav, aged about 59 Years, Caste Rawat R/o Village Sarsopuri, Police Station Arjuni, Tahsil And District Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer Police Station Magarlod (Wrognly Mentioned As Nagri) District Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

---- Respondent

For Applicant : Mr. Sanjay Agrawal, Advocate.

For Respondent : Mr. Arun Shukla, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

12/03/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.25/2019 registered at Police Station-Magarlod, District–Dhamtari(C.G.), for the offence punishable under Section 409 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. No case is made out against this applicant. The applicant was Head Constable and incharge of the Armoury. When he had taken charge of the Armoury from Rakesh Sahu, Head Constable, he had not received the pistol having Butt No.99 & 100, and he was informed that pistol having Butt No.99 was issued to

Chowki Kareli Badi and pistol having Butt No.100 was issued to the SHO of the police-station. The applicant has been held responsible by the department for the missing pistol, which is a departmental case and there is no allegation that this applicant has misappropriated and taken any benefit of the missing of the said pistol and cartridges. Additional documents have been filed by the applicant, in which, the explanation of Head Constable Rakesh Sahu clearly mentions, that pistol having butt No.100 and cartridges were with SHO of the police-station and this explanation is dated 20.1.2019. Another notice has been filed in which ASI Arvind Netam has been asked to give explanation regarding the possession of pistol having butt No.99 and 10 round of cartridges which were allotted to him on 22.11.2017, to which he replied that he has redeposited the same with Munshi Uttam Sahu and his explanation is also dated 20.1.2019. The applicant in this case is only departmentally responsible and there is no criminality in this case, hence, it is prayed that applicant be granted anticipatory bail.

3. Learned State Counsel opposes the bail application and the submissions made in this respect. It is submitted that according to the report of departmental inquiry, the applicant has been held clearly responsible for the missing of the concerned pistol and cartridges and there is no other explanation given by him, therefore, it can be presumed that the applicant misappropriated the same, hence, the application be rejected.
4. Heard both the parties and perused the case diary.
5. The case of prosecution in brief is this, that while he was incharge of the Armoury, because of his negligence one pistol having butt No.99 and 10 cartridges were found missing. Hence, this case.

6. On perusal of the case diary, it is found that the missing pistol and cartridges have been found in Chowki Kareli Badi, therefore, on the basis of this fact, I feel inclined to grant anticipatory bail to the applicant.
7. Accordingly, the anticipatory bail 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 his executing a personal bond in the 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.

Sd/-

(Rajendra Chandra Singh Samant)
Judge