

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No.521 of 2019**

Dr. Punit Gupta, S/o Dr. G.B. Gupta, aged about 41 years, R/o Rajendra Nagar, In front of Vijeta Complex, Civil and Revenue District Raipur, Chhattisgarh

---- Applicant**versus**

State of Chhattisgarh through Station House Officer, Police Station Gol Bazar, District Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Shri Vikas Singh, Senior Advocate with Shri Vivek Sharma, Shri Apoorva Kurup and Ms. Deepika Kalia, Advocates
For Respondent/State	:	Shri S.C. Verma, Additional Advocate General and Shri D.P. Singh, Deputy Advocate General

Hon'ble Shri Justice Arvind Singh Chandel**Order on Board****24.4.2019**

1. Apprehending his arrest in connection with Crime No.70 of 2019 registered at Police Station Gol Bazar, Raipur, District Raipur for offence punishable under Sections 409, 420, 467, 468 and 120B of the Indian Penal Code, the Applicant has filed the instant application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. Facts of the case, in brief, are that one K.K. Sihare, present Superintendent of D.K.S. Super Speciality Hospital, Raipur (Henceforth 'DKS Hospital') lodged a written report on 15.3.2019 with averments that the State Government constituted a committee to inquire about the various complaints regarding irregularities committed by the Applicant while he was posted as

the Superintendent of DKS Hospital. The committee submitted its report on 8.3.2019 observing therein that during the process of purchase of machines, allotment of tenders and making appointments, various irregularities were committed by the Applicant by misusing his office. On the basis of the said complaint, the police registered a First Information Report against the Applicant for commission of the aforesaid offence punishable under Sections 409, 420, 467, 468 and 120B of the Indian Penal Code.

3. Learned Senior Advocate assisted by his associates appearing for the Applicant submitted that the Applicant is innocent. He has been falsely implicated in the case. It is further submitted that on the basis of the FIR and the material collected by the prosecution, *prima facie*, no offence, as alleged under Sections 409, 420, 467, 468 and 120B of the Indian Penal Code, is made out against the Applicant. It is further submitted that the Chhattisgarh Medical Services Corporation Limited (henceforth 'the Corporation') is established by the Government for procurement, distribution, installation, maintenance of all types of equipments and instruments required for medical health facilities in Chhattisgarh. All the works related to various tenders, purchases of machines and medicines were carried out by the Corporation and the Applicant was not having any individual role in those works. He had not to act or take any decision in an individual capacity for the same. Purchases of machines, issuance of tenders and appointments etc. were executed by the Corporation formed for the purposes as per the regulations. The Applicant never exercised his power arbitrarily with regard to the administrative

rules and regulations as alleged against him. The investigating agency has investigated the matter in a biased manner which is *prima facie* evident from the FIR. The Applicant being the son-in-law of the Ex-Chief Minister of the Chhattisgarh State, who is presently sitting in opposition to the ruling political party, has every reason to believe that excessive pressure carried out by the investigating agency in a harassing manner is determined to tarnish the image and reputation of the Applicant so that the party ruling the Government may have political mileage over the party in opposition, where father-in-law of the Applicant is an office bearer at the national level. Learned Senior Advocate referring to the judgment in **(2011) 1 SCC 694 (Siddharam Satlingappa Mhetre v. State of Maharashtra)** submitted that in the above circumstances the arrest would be the last option. The Applicant is ready to cooperate with the investigation. Therefore, he be enlarged on anticipatory bail.

4. Opposing the contentions raised on behalf of the Applicant, Learned Counsel appearing for the Respondent/State submitted that there are sufficient evidence against the Applicant for the alleged offence. The State Counsel went through the statements of Arun Tripathi, Prashant Deshmukh, Yogesh Kandpal, Sunil Agrawal and Sarveshwar Tripathi. The State Counsel also went through the report submitted by the committee. It is submitted by the State Counsel that from the statements of the above-named witnesses and the report of the committee, it is clear that irregularities have been committed by the Applicant. From the statements of Prashant Deshmukh and Yogesh Kandpal, *prima facie*, it is established that a forged balance-sheet was submitted

by the Applicant in Punjab National Bank, Katora Talab Branch, Raipur on the basis of which a term loan of Rs.64 Crores has been granted by Punjab National Bank in favour of DKS Hospital. Referring to the judgments in **(2012) 8 SCC 730 [Lavesh v. State (NCT of Delhi)]**, **(2014) 2 SCC 171 (State of Madhya Pradesh v. Pradeep Sharma)** and **(1997) 7 SCC 187 (State represented by the CBI v. Anil Sharma)**, the State Counsel further submitted that certain documentary material are yet to be seized from the Applicant and, therefore, his custodial interrogation is necessary. Hence, the prayer for grant of anticipatory bail deserves to be rejected. However, which documentary material are to be seized from the Applicant, their particulars have not been given by the State Counsel.

5. In reply, Learned Senior Advocate appearing for the Applicant submitted that all the purchases of the machines were made on the recommendation of the purchase committee. He further submitted that as regards the balance-sheet, which is being claimed to be forged, any signature was put therein by the Applicant or the balance-sheet was prepared by him has not been established by the prosecution. He further submitted that the aforesaid term loan of Rs.64 Crores was not obtained by the Applicant in his favour, but the same was granted in favour of DKS Hospital.
6. I have heard Learned Counsel appearing for the parties and perused the case diary with due care.
7. From perusal of the FIR it reveals that on the basis of a complaint a committee was constituted and on the basis of recommendation

of the said committee, the FIR was lodged by K.K. Sihare. The State Counsel admitted the fact that the complaints which were made to the State Government against the Applicant on the basis of which the committee made recommendation for lodging the FIR against the Applicant are not available in the case diary. On being asked, the State Counsel also admitted that for the alleged irregularities of the Applicant, he has also been given a notice by his department.

8. Having heard the arguments advanced on behalf of the parties and having perused the case diary with utmost circumspection, without further commenting on merits of the case, I am of the considered opinion that the present is a fit case for grant of anticipatory bail to the Applicant.
9. Accordingly, the application for grant of anticipatory bail to the Applicant is allowed.
10. It is directed that in the event of arrest of the Applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs.2,00,000/- (Rupees Two Lakhs) with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned Trial Court. He shall also abide by all the following terms and conditions:
 - (i) He shall make himself available for interrogation before the Investigating Officer as and when required,
 - (ii) 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 from disclosing such fact to the Court,

- (iii) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iv) He shall appear before the Trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
JUDGE