

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A.) No. 996 of 2019

- Rajiv Shukla S/o Shri Keshar Prasad Shukla Aged About 42 Years R/o Village Farhada, Police Station Seepat, District Bilaspur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Sarkanda, District Bilaspur Chhattisgarh

---- Non-applicant

For Applicant	: Mr. C.D. Sharma, Advocate.
For State/respondent	: Mr. Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

29-08-2019

Heard.

1. Apprehending arrest in connection with Crime No.268/2019, registered at Police Station– Sarkanda, District- Bilaspur, Chhattisgarh for offence punishable under Section 420, 467, 468 and 471 of the I.P.C., the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant was working as Secretary of Gram Panchayat Parsahi, Janpad Panchayat, Belha. The allegation against him regarding making embezzlement is falsified, as the order of the C.E.O. of Zila Panchayat dated 22.02.2019 was challenged in the Court of Additional Commissioner, Bilaspur Division and his revision has been allowed. Therefore, the order dated 22.02.2019, on the basis of which, F.I.R. has been lodged, is itself not in existence. Further, the copies of Panchayat Resolution and Internal Audit Reports are produced, documents are also produced showing that

the amounts withdrawn have been deposited in the Panchayat account. Placing reliance on the judgment of Supreme Court in ***Baljinder Kaur Vs. State of Punjab*** reported in ***2015 Cri. L. J. 758***, it is submitted that the investigation being conducted against the applicant is not fair in all respects. Hence, the applicant is entitled for grant of anticipatory bail to the applicant.

3. Learned counsel for the State opposes the application and submits that there is clear evidence of manipulations. Pursuant to the resolution of Panchayat, the cheques that were issued for the amount agreed by the Panchayat have been manipulated to increase the value of the cheques and there is also evidence that the amounts so withdrawn were deposited in the personal account of the applicant. Therefore, it is a clear case of forgery and cheating, hence, the application may be rejected.
4. In reply, it is submitted that there is no mention of manipulation in records and cheques and deposit in the personal account of the applicant in the said rejection order. Therefore, this objection cannot be entertained.
5. Heard learned counsel for the parties and perused the case diary.
6. According to the prosecution case, an F.I.R. has been lodged against the applicant on the basis of order dated 22.02.2019 passed by Chief Executive Officer of District Panchayat, Bilaspur. On the basis of the complaints received, an inquiry was conducted in which it was found that the Panchayat has agreed for withdrawal of Rs. 90,000/-, Rs.90,000/- and Rs.18,000/- regarding which cheques were to be drawn. However, when the cheques were placed for clearance the

amount was Rs.7,90,000/-, Rs.9,90,000/- and 3,18,000/-, thus excess amount of Rs.19,00,000/- was withdrawn and embezzled by the applicant. The order and revision before the Additional Commissioner, Bilaspur reflects that the inquiry against the applicant was conducted without following the principle of natural justice. Therefore, the matter may be inquired again.

7. On going through the case diary, it is found that there is evidence present against the applicant, on the basis of which, the offences are made out against him and the order of Revisional Authority does not have an effect by quashing of the F.I.R.. Therefore, under these circumstances, I do not feel inclined to allow this application.

8. Hence, the bail application filed under Section 438 of Cr.P.C. is rejected.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Monika