

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4217 of 2019

Shivshankar Bhatt, S/o. Sri Ram Manohar Bhatt, Aged About 59 Years,
R/o. HIG - 1/138, Deen Dayal Upadhyay Nagar, Raipur, Police Station
D.D. Nagar Raipur, Tahsil Raipur, Civil Revenue District Raipur
Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Police Station Anti Corruption Bureau,
Raipur, District Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Amit Lahoti with Mr. Kapil Maini & Ajay
Chandra, Advocates

For Respondent : Mr. Alok Bakshi, Addl. A.G.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02.08.2019

1. This is the 9th bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested in connection with Crime No.09/2015, registered at Police Station- Anti Corruption Bureau, Raipur (C.G.) for the offence punishable under Section 11, 13(1)(a), 13(i)(d) & 13(2) of the Prevention of Corruption Act, 1988 read with Section 109, 409, 420, 120-B & 468 of Indian Penal Code.
2. Case of the prosecution, in brief, is that the applicant being working in the Nagrik Aapurti Nigam i.e. Civil Supplies and posted at Head Quarter, Raipur, as Manager and was In-charge of 27 Districts for supply of Public Distribution System had misappropriated the government paddy which was meant for Public Distribution System and in connivance with the other co-accused in an organized manner received the amount from the different miller and also on

the threat of cancellation of the milled rice received the amount from transporters. Further, it is stated that they collected the sub-standard broken rice and collected money from the transporters, on that account received the amount by arm twisting the millers. The said collected amount on different heads were accounted were being maintained separately which was seized. Thereby, the offence is committed.

3. It is contended on behalf of the applicant that lastly against the rejection of bail application, the applicant approached to the Supreme Court in Criminal Appeal No.2319/2018 wherein the Supreme Court has given liberty to renew the prayer for bail before the trial Court, if trial is not concluded within a period of one year. Thereafter, MCRC No.1615 of 2019 was filed before this Court which was rejected on 09.04.2019 on the ground that liberty was given by the Supreme Court to move the bail application before the trial Court. Thereafter, the bail application before the trial Court was moved, which was dismissed on 25.05.2019; hence this bail application.
4. Learned counsel for the applicant submits that the applicant was arrested in another case in case of disproportionate assets wherein he was released on bail by the coordinate Bench of this Court in MCRC No.1095 of 2018 (Annexure A-11). He further submits that another accused Anil Tuteja who was absconding even after filing of the charge sheet was released on anticipatory bail by the coordinate Bench of this Court in MCRCA No.1679 of 2018 (Annexure A-12). It is contended that the applicant is in custody since 15.03.2015 and as per the order dated 25.05.2019 of the trial Court, 75 witnesses are to be examined and as per the instructions received 5 more witnesses have been examined and the applicant

is in custody for more than 4 ½ years. He placed his reliance in case of **Sanjay Chandra v. CBI** reported in **(2012) 1 SCC 40** and would submit that pre-trial detention of the applicant will amount to denial of fair trial as the applicant is aged about 64 years and there is no chance of tempering of the evidence. It is further contended that the application for special investigation was filed by the State to conduct the trial denovo, which is also pending adjudication before the different Bench of this Court. He submits that considering the period of detention of the applicant, he may be enlarged on bail.

5. Per contra, learned State counsel opposes the prayer for grant of bail.
6. Perused the order of the Supreme Court dated 08.05.2018. Perusal of the order would show that Supreme Court has fixed the dead line for conclusion of the trial within a period of one year and further liberty was given to renew the prayer for bail to the applicant, if the trial is not concluded within one year. Thereafter, before expiry of one year, the application was moved directly before this Court which was dismissed in MCRC No.1615 of 2019 on 09.04.2019 on the ground that the applicant to approach the trial Court as liberty was given to him by Supreme Court to move the bail application. The order dated 25.05.2019 passed by the trial Court shows that on 25.05.2019 furthermore 75 witnesses are remained to be examined out of 213 witnesses. The record would show in MCRC No.1095 of 2018 in another case, the coordinate Bench has enlarged the applicant on bail on 17.04.2018 and in respect of other co-accused the another coordinate Bench of this Court in MCRCA No.1679 of 2018 has granted anticipatory bail on 29.04.2019.
7. Considering the liberty given to renew the prayer by the Supreme Court and the fact that the applicant who is aged about 64 years is

in jail since 15.03.2015 and further it appears that most of the witnesses have been examined, I am inclined to release the applicant on bail.

8. Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court for his appearance before the said Court as and when directed.

Sd/-
(Goutam Bhaduri)
Judge