

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1067 of 2019**

Laxminarayan Banjare S/o Shri Shambhuran Banjare Aged About 61 Years Caste Satnami R/o Village Malkharauda, Tahsil And Police Station Malkharauda, District Janjgir-Champa Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through the Station House Officer, Police Station Dabhara, District Janjgir Champa, Chhattisgarh.

---- Respondent

For applicant – Shri Shashank Thakur, Advocate.
For State- Shri Sudeep Verma, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****02/08/2019**

1. This is second bail application under section 438 of Cr.P.C. The earlier bail application was dismissed as withdrawn on 9/03/2016 vide M.Cr.C.(A) No.206/2016.
2. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No.366/2014 registered at Police Station Dabhara, District Janjgir-Champa (C.G.) for offence punishable under Sections 409, 420, 467, 468 R/w Section 34 of Indian Penal Code.
3. As per the prosecution case, the applicant who was posted as In-charge CEO in division of Janjgir in execution of 11 different works prepared forged muster roll. In connivance with the other co-accused forged bills were prepared whereas no work was actually done on the subjective place. Allegation in the FIR further is to the effect that payment to the labourers were made on the basis of hand written wage list though their name were not recorded in the muster roll. Applicant was CEO at the relevant time on whose signature payment were made and it is alleged

that over payment were made.

4. Learned counsel for the applicant would submit that actually the confusion occurred because of the fact that valuation of the respective work were over valued and further the enquiry which was conducted would show that actually payment was not ever made. He further submits that when payment has not been made, therefore no question arises about defalcation. It is further submitted that the applicant in like nature of case has been enlarged on anticipatory bail by the coordinate bench of this court in Crime No.365/2014 on 17/06/2019 and therefore the applicant may be granted benefit of anticipatory bail in this case too.

5. Learned State counsel opposes the prayer for grant of anticipatory bail.

6. Perusal of the record shows that first bail application was dismissed as withdrawn on 9/03/2016 vide M.Cr.C.(A) No.206/2016 with liberty to the applicant to surrender himself before the regular court. However, it appears that thereafter the applicant has not surrendered before the court and after three years this bail has been filed. Charge sheet in this case appears to be filed in the year 2016. Number of allegations have been attributed including the fact that forged muster roll were prepared and forged bill were on record. Considering these facts and the fact that the applicant was absconding till date, I am not inclined to extend benefit of anticipatory bail to the applicant.

7. Accordingly, the second anticipatory bail application is dismissed.

Sd/-
(Goutam Bhaduri)
JUDGE

