NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 1107 of 2019

Samund Ram Singh, S/o. Late Nankun Singh, Aged About 70 Years, Retired O.S.D. Office Of Excise Commissioner, Raipur, Chhattisgarh, R/o. Pipal -1/172, Housing Board Colony, Boriya Kala, Raipur, District Raipur Chhattisgarh.

----Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, State Economic Offence, Wing/Anti Corruption Bureau, Raipur Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Anil Pillai, Advocate
For Respondent	:	Mr. Devendra Pratap Singh, Dy.A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/09/2019

1. Apprehending arrest in connection with Crime No. 12/2019, registered at Police Station – State Economic Offences Wing/ Anti Corruption Bureau, Raipur, District – Raipur (C.G.) for offence punishable under Section 7 (C) of the Prevention of Corruption Act, 1988 and Section 420, 467, 468, 471, 120-B of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant on the basis of the material present in the case diary. One unnumbered FIR has been registered by the

Economic Office/ACB, Raipur in April, 2019, which does not show any time of registration of FIR. There is no explanation as to why the FIR has been registered unnumbered and why the time of registration of FIR is not mentioned. Further the lodger of FIR is also one Virendra Chaturvedi, who has just made some verification that the petitioner was appointed on contract between 2012 to 2017 as OSD in Excise Department. Without disclosing the source of information, it is alleged that the applicant has misused his position, collaborated and conspired with liquor contractors causing huge loss to the State exchequer. He has raised doubt as to how the tenderer/retailers were given excessive percentage in profit in the price fixation of the country liquor, which was in lesser percentage in neighboring States, therefore, all the contents of the information and the FIR shows that there is no information. It is submitted that the applicant was only appointed on contractual basis as OSD and he did not have any drawing or disbursing power. Loss that has been calculated is notional, which does not show any actual loss caused to the State exchequer or any benefit received by the applicant. The applicant is now retired and he is of age about 70 years. Therefore, it is prayed that the applicant may be granted anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that during his tenure as OSD between 2012 to 2017, this applicant has misused his position excessively regarding which there is proof available in audit report of Accountant General. Further there is proof available that the present percentage of proof liter in the liquor bottles were tampered with at the instance of this applicant

for giving benefit to the liquor contractor. Witnesses of Excise Department have given statement against this applicant, which shows that applicant was responsible for price control of the liquor. It is also submitted that there are six other complaints are pending for enquiry against the petitioners in which the corruption is alleged. The applicant is not cooperating with any investigation. There is also requirement of custodial interrogation. Hence, the application be rejected.

4. In reply, it is reiterated that the applicant was only officer on special duty and had no authority to take any decision which is alleged in the FIR and other substance. The FIR itself is very ambiguous, therefore, the application be allowed.

5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.

6. According to the FIR lodged, this applicant in capacity of OSD had authority for fixation of maximum or minimum price of country and foreign liquor. On the basis of the audit report and other evidence, it has been concluded that between the period 2012-13 to 2016-17 because of erroneous fixation of price, the retailers, tenderer and licensee made profit of Rs.946.79 Crores in sale of foreign liquor between the same period the retailers/tenderers/licensee made profit of Rs.561.13 Crores in sale of country liquor because of which, the State exchequer has suffered loss of Rs.1400.00 Crores. The case is presently under investigation and the other facts may be revealed.

7. Considered the submissions made and the contents of the case diary. Considering that it is a case of huge fraud as alleged in the

FIR and according to the evidence collected in the investigation and there also appears to be requirement of custodial interrogation of the applicant, therefore, this Court is not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.

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

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram