

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No. 1244 of 2019**

Komal Dev Nishad, S/o. Late Shri L.R. Nishad, Aged About 35 Years,
Occupation - Secretary, Village Panchayat, R/o. Village Panchayat And
Village Mangalnar Block and Tahsil - Bhairamgarh, District Beejapur
Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station
Jangla, District Beejapur Chhattisgarh.

---- Respondent

For Applicant : Mr. Avinash K. Mishra, Advocate

For Respondent/State : Mr. Neeraj Pradhan, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****09/08/2019**

1. Apprehending arrest in connection with Crime No.11/2019, registered at Police Station – Jangla, District – Beejapur (C.G.) for offence punishable under Section 409, 420 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 regarding commission of offence as alleged. The SDO Revenue Bhairamgarh has lodged FIR against the applicant only on the basis of the complaint received without making any preliminary enquiry on the same, regarding which he

had no authority. The applicant was never given any appropriate opportunity to present his case, before drawing conclusion for lodging FIR against him. Therefore, no case is made out against him. 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 the applicant has embezzled an amount of Rs.7,35,000/- which was received by him from the beneficiary for constructing their houses. There is evidence of witnesses that the applicant was paid the amount, which he has not utilized for construction, therefore, no case is made out for grant of anticipatory bail. The applicant has criminal history of having been prosecuted for offence of cheating earlier. Therefore, he is not entitled for grant of anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. Complainant SDO Revenue Bhairamgarh has lodged FIR that the applicant received Rs.41,30,000/- from 118 beneficiaries, which was for the construction of their houses, the applicant did not complete the construction of houses of 88 beneficiaries and he has not commenced the construction of houses of 33 other beneficiaries, therefore, an enquiry was made in which it was found that the applicant has embezzled the amount of Rs.7,35,000/- regarding which he has not executed any work.
6. Considered the submissions made and the contents of the case diary. Diary statement of the witnesses show that the applicant was entrusted with the amount for construction of the houses of the

beneficiaries, which he has misused and misappropriated, therefore, I am of this opinion that it is not a fit case, where the benefit of Section 438 of Cr.P.C. can be extended to the applicant.

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

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram