

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1247 of 2019**

- Chhannulal S/o Shri Firantaram Uike Aged About 61 Years R/o Police Line- Bemetara, District- Bemetara, Chhattisgarh.

---- Applicant**Versus**

- The Central Bureau Of Investigation The Director, Central Bureau Of Investigation, Plot No. 5-B, 6th Floor, C.G.O. Complex, Lodhi Road, New Delhi, Pin Code- 110003.

---- Respondent

For Applicant	: Shri Tarendra Kumar Jha, Advocate.
For Respondent/CBI	: Shri B. Gopa Kumar, Asst. Solicitor General

Hon'ble Shri Justice Arvind Singh Chandel**Order On Board****04/12/2019**

1. The applicant has preferred this first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. RC-2(S)/2015/SC-III/ND registered at Police Station CBI/SC-III/New Delhi, for the offence punishable under Sections 302, 201, 203, 120-B of Indian Penal Code.
2. Facts of the case is that on 23.01.2011 deceased Umesh Rajput was present in his house, at that time co-accused Shiv Kumar (now dead) and Vikash Bansal both came to visit the deceased. Co-accused Shiv Kumar went inside the room where deceased was doing some work and Vikash Bansal engaged himself with the wife and daughter of the

deceased. In the meanwhile, daughter of the deceased brought tea and biscuit for the deceased and accused Shiv Kumar in the room. Between 6:30-6:45 PM, a sound of gunshot was heard, thereafter the witnesses went to the spot i.e. room of the deceased and found the deceased in injured condition and Shiv Kumar was present in the same spot and without giving any explanation about the incident that has taken place, Vikash Bansal borrowed the motorcycle of the deceased and went from the spot. Deceased was taken to hospital, where he was declared dead. Report was made by co-accused Shiv Kumar at Police Station Chhura where present applicant was posted as S.H.O. After lodging of report, applicant started investigation and after one day he was transferred from police station Chhura to police station Gariyaband. A SIT was constituted and applicant was part of the team. On the basis of order dated 17.12.2014, passed by this Court in WP(Cr.) No. 6459/2011, investigation was handed over to CBI, thereafter, a supplementary charge-sheet under Section 173(8) of Cr.P.C. has been filed by CBI against present applicant.

3. During course of investigation, applicant seized a threatening letter from the place of incident. It is alleged that said threatening letter was written by co-accused Shiv Kumar and to save Shiv Kumar, present applicant destroyed the said threatening letter and thereafter, wrote another threatening letter and kept it in the place of incident thereby applicant prepared false and fabricated evidence to save Shiv Kumar and Vikash Bansal. Also, present applicant dictated false F.I.R. projecting accused Shiv Kumar as complainant of the case. Thus, applicant committed alleged offence.

4. Learned Counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that applicant was transferred one day after lodging of the F.I.R. and further investigation was not conducted by him. Initially, charge-sheet has been filed against co-accused Vikash Bansal in which present applicant was shown as prosecution witness. Till date, total 12 witnesses have been examined and no incriminating evidence has been found against present applicant. He further submits that main accused Vikash Bansal has already been granted regular bail vide order dated 28.11.2017 passed in MCRC No. 428/2017. Applicant is a Police Inspector and at present he is at his retiring age from his service. Thus, looking to the above, he may be granted benefit of anticipatory bail.

5. Learned Assistant Solicitor General appearing for the C.B.I. opposes the bail application and submits that there is sufficient evidence available against the present applicant. To save co-accused Shiv Kumar, present applicant destroyed the original threatening letter and thereafter, he wrote a fabricated threatening letter and kept the same in the place in incident. Thus, applicant has prepared false and fabricated evidence in the present case. There is sufficient evidence available on record from which it can be said that main culprits are Shiv Kumar and Vikash Bansal and to save them, present applicant lodged a false and fabricated F.I.R. On 24.01.2011, co-accused Shiv Kumar was in Raipur but in the *Naksha Panchnama* his presence was marked in Chhura to show him as a witness and not as a suspect. Sufficient material is available against present applicant, thus, it is

prayed that applicant should not be granted benefit of anticipatory bail.

6. I have heard learned Counsel appearing for the parties and perused the material available with due care.
7. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence collected by the C.B.I. and particularly considering the fact that applicant, being a police officer tampered the evidence and tried to protect the accused persons, also there is sufficient evidence available against applicant, therefore, I am not inclined to extend the benefit of anticipatory bail to the present applicant.
8. Accordingly, the bail application is rejected.

Sd/-
(Arvind Singh Chandel)
Judge