

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Criminal Revision No.1028 of 2018

Suresh Chandra Maheshwari, S/o Shri Banshgopal Maheshwari, aged about 59 years, Incharge Executive Engineer, Public Works Department, Ambikapur, R/o Geetanjali Nagar, Kashyap Colony, Lane No.4, Old Bus Stand, Bilaspur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Anti Corruption Bureau/EOW, Raipur, Chhattisgarh

--- Respondent

For Applicant	:	Shri Keshav Dewangan, Advocate
For Respondent	:	Shri K.K. Dewangan, Dy. Govt. Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

15.1.2019

1. With the consent of Learned Counsel appearing for the parties, the matter is heard finally.
2. The instant revision has been preferred against the order dated 17.7.2018 passed by the Special Judge under the Prevention of Corruption Act (henceforth 'the Act'), Ambikapur relating to Crime No.46 of 2016 registered in Anti Corruption Bureau/Economic Offences Wing, Raipur for offence punishable under Sections 13(1) (e) and 13(2) of the Act, whereby the Special Judge has rejected the application preferred by the Applicant under Section 457 of the Code of Criminal Procedure.
3. Facts of the case, in brief, are that the Applicant was posted as an Executive Engineer in Public Works Department at Ambikapur in

the year 2016. The aforesaid offence under Section 13(1)(e) and 13(2) of the Act was registered against him in Anti Corruption Bureau/Economic Offences Wing, Raipur. During the course of investigation, the Respondent Anti Corruption Bureau/Economic Offences Wing made seizures of certain articles, bank accounts and cash from the Applicant, his wife and his other family members. On 25.6.2018, the Applicant moved an application under Section 457 of the Code of Criminal Procedure before the Special Judge for custody of the seized property. In the application, it was submitted by the Applicant that during the course of investigation and as per the information of the Applicant, the Respondent did not find any case of disproportionate assets against the Applicant and, therefore, the Respondent has submitted a final report before the Special Court for closure of the case. Notice was issued to the Respondent. Reply to the notice was filed by the Respondent in which it was admitted by the Respondent that after investigation, no case of disproportionate assets was found against the Applicant and, therefore, closure report bearing No.3/2017 was prepared and submitted, but the Special Judge has rejected the application of the Applicant for custody of the property vide impugned order dated 17.7.2018 only on the ground that the closure report has still not been admitted. Hence, the instant revision.

4. Learned Counsel appearing for the Applicant submits that the Trial Court has failed to consider that the prosecuting agency after investigation has come to a conclusion that the property seized was not found to be disproportionate and on this ground a closure report of the case has already been filed by the prosecution.

Therefore, custody of the property, allegedly stated to be disproportionate, should have been handed over to the Applicant. After filing of the closure report by the prosecution, retaining the property with the prosecuting agency is not appropriate.

5. Learned Counsel appearing for the State/Respondent supports the impugned order.
6. I have heard Learned Counsel appearing for the parties and perused the case diary and the record with due care.
7. As per seizure memo dated 3.6.2016, total cash of Rupees Five Lakhs were seized from the Applicant. Vide another seizure memo dated 3.6.2016, ornaments amount to Rs.59,400/- were seized from Sangita Maheshwari, wife of the Applicant. Vide another seizure memo dated 3.6.2016, other ornaments amounting to Rs.13,07,022/- were seized from Sangita Maheshwari, wife of the Applicant. As per the inventory prepared by the prosecution, few bank accounts were also found to be opened in the names of the Applicant and his wife. Allegedly, those accounts were also seized. From perusal of the material available, it is also clear that in the reply dated 3.7.2018 made by the Respondent, it was categorically stated that after investigation no case of disproportionate assets was found against the Applicant and, therefore, closure report No.3/2017 was filed on 31.8.2017. Thus, it is clear that no case of disproportionate assets was found against the Applicant and, therefore, closure report was also filed on 31.8.2017. The closure report is still pending consideration before the Trial Court for about 1 year. When no case of disproportionate assets was found

against the Applicant and, therefore, closure report is pending consideration before the Special Judge for about 1 year, it would be in the interest of justice that the seized property is handed over to the Applicant after obtaining an adequate surety from him.

8. Accordingly, the revision is disposed of with a direction to the Trial Court to hand over the property in question to the Applicant after obtaining an adequate surety from him.

Sd/-

(Arvind Singh Chandel)
Judge