

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1543 of 2019**

- Rajeev Pathak S/o Gaurishankar Pathak Aged About 53 Years Posted As Sub Divisional Officer Tribal Development, Ambikapur, District Sarguja, R/o Dutta Colony Ambikapur, Police Station and Tehsil Ambikapur, District Sarguja, Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh Through Police Station Kusmi, District Balrampur, Ramanujganj, Chhattisgarh.

---- Respondent

For Applicant	: Shri Shantam Awasthi, Advocate.
For Respondent/State	: Shri Ajay Kumrani and Shubham Verma, P.L.

Hon'ble Shri Justice Arvind Singh Chandel**Order On Board****16/12/2019**

1. The applicant has preferred this first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 73/2018 registered at Police Station Kusmi, District – Balrampur-Ramanujganj, (C.G.) for the offence punishable under Sections 197, 202, 204, 218, 465, 466/34 of Indian Penal Code.
2. As per the prosecution story, one Somnath Bhagat, R.T.I. activist lodged a complaint before the learned Collector, District Balrampur-Ramanujganj, (C.G.) in the year 2016. In the furtherance of the aforesaid complaint, an enquiry was conducted by the then S.D.O., Kusmi. Thereafter, on the basis of the enquiry report, F.I.R. has been

lodged in the year 2019. Applicant, at the relevant time was posted as Assistant Engineer, Tribal Welfare Department. Allegations against the present applicant and other co-accused persons, is that kitchen sheds were already constructed in 17 Primary Schools and 9 Middle Schools but despite of that, present applicant prepared forged documents showing construction of more kitchen sheds thereby committed financial irregularities of government funds. On the basis of the said, offence has been registered.

3. 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, *prima facie*, no case is made out against present applicant. Virtually, Block Education Officer, Kusmi was appointed as the construction agency for the purpose of aforesaid constructions and applicant being posted as Assistant Engineer, Tribal Welfare Department, was only given the responsibility of providing technical know-how to the concerned Block Education Officer. Thus, applicant was not responsible for the alleged constructions of kitchen sheds. Main allegation is against co-accused Janmjay Singh, who has already been granted benefit of anticipatory bail vide order dated 11.10.2018 passed in MCRCA No. 1181/2018. Therefore, it is prayed that, applicant may also be granted anticipatory bail.
4. Learned Counsel appearing for the State opposes the bail application.
5. I have heard learned Counsel appearing for the parties and perused the material available with due care.

6. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence collected by the prosecution and particularly considering the fact that alleged construction was done in the year 2009-10 and F.I.R. has been lodged in the year 2019, main accused person Janmjay Singh has already been granted benefit of anticipatory bail vide order dated 11.10.2018 passed in MCRCA No. 1181/2018, therefore, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.

7. Accordingly, the bail application is allowed.

8. It is directed that in the event of arrest of the applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. He shall also abide by all the following terms and conditions :

- (i) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
- (ii) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) He shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
Judge