

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1500 of 2019

- Chandra Bhushan Pandey, S/o Late Ram Janam Pandey, Aged About 54 Years, General Manager, PNB, Branch Pritampuradi P Market, Delhi, R/o Flat No. 149 B, Mayur Vihar, Phase-11, Pocket C, Police Station-Mayur Vihar, Delhi. Tahsil & District Delhi - 110091.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police-Station Mahasamund, Tahsil & District-Mahasamund, Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Ravi Bhushan Singhal, Sr. Advocate along with Mr. T.K. Jha, Mr. Romir S. Goyal & Mr. Priyadarshi Gopal, Advocates.
For Respondent	:	Mr. Adil Minhaj, Govt. Advocate.
For Objector	:	Mr. Sunil Otwani, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

25/09/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.240/2018 registered at Police Station- Mahasamund (C.G.), for the offence punishable under Sections 420, 34 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. The applicant is presently working as General Manager of Punjab National Bank, New Delhi. At the time of incident, which is reported in the year 2014-15, this

applicant was working as Branch Manager, Punjab National Bank, Mahasamund. The allegation regarding cheating and misappropriation of fund made by the complainant against this applicant is totally false. On the basis of request made by the complainant and loan papers submitted, the loan was sanctioned in favor of the complainant for construction of 'Polly House' in his agricultural field. According to the rules and regulation of the bank, in such a case the payment was to be made directly to the agency who had undertaken the work. On submissions of bills, regarding the completion of projects, the payment has been made to the said agency, which has been made co-accused in this case. There had never been any complaint from the complainant side until the loan recovery proceedings were started and then FIR has been lodged on 1.6.2018. Similarly placed co-accused Bharat Patel, Director of Prabhavi Biotech Pvt. Ltd. has been granted anticipatory bail by this Court vide order dated 20.9.2018 passed in MCRCA No.1160 of 2018. The applicant's case is on better footing than the co-accused who has been granted anticipatory bail as he has only performed his duty as Branch Manager and there are no allegations that he has received any benefit from the said loan transaction. There is nothing to support this allegation that he has received any benefits from the said loan transaction. Hence, it is prayed that applicant may be enlarged on anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the complainant has made serious allegations against this applicant and co-accused persons that forged bills were submitted regarding completion of work and the same were approved and passed for payment by this applicant without making any inspection of the proposed Polly house. The

inquiry report of the Assistant Director Horticulture, Mahasamund is part of the case diary, in which, it is reported that this applicant in connivance and collaboration with co-accused had given preference to the company of co-accused for getting undue profit and thus financial irregularity has been committed by conspiracy. Further, it would be revealed from this fact that payment to the co-accused company was made in excess to the loan sanctioned, therefore, application be rejected.

4. Learned counsel for Objector adopting the argument advanced by the counsel for State submits that from the inquiry itself it is reflected that extra payment of about Rs.12 lakhs was made to the co-accused company, therefore, this applicant cannot draw benefit from the order granting anticipatory bail to the co-accused, hence, his application be rejected.
5. In reply, it is submitted by counsel for applicant that the report on which the State counsel and the objector rely, is given by Deputy Director Horticulture. There is no such complaint to the bank authorities and no such inquiry has been made against this applicant to show that he has derelicted in performing duties and committed any financial irregularities. Even if it is a case of making excess payment than the loan sanctioned, then the same is a departmental issue for which applicant can be held responsible departmentally and recovery can be made from him personally. There is no material showing any criminality on the part of this applicant. Hence, it is prayed that application of this applicant.
6. Heard both the parties and perused the case diary.
7. FIR has been lodged by the complainant that he had obtained a loan

for construction of Polly house on his agricultural field under the 'National Horticultural Scheme'. It is alleged that after sanction of loan, the payment was to be made directly to the agency who was to complete the project. It is alleged that with intention to make unlawful profit, the applicant misused his post and in connivance & collaboration with the co-accused, on the basis of forged bills, excess amount of Rs.12,39,000/- was withdrawn and paid to co-accused from the bank without completion of work and without the consent of complainant. Hence, this case.

8. Considered on all the material present in the case diary. There is no denial that bills were submitted and on that basis the payments were made to the agency which had undertaken construction work of Polly house. Allegations that are made against these applicants also required to be inquired by the bank itself. Report of the Horticultural department has shown some lapses of work executed for which the co-accused can be held responsible. There is no denial that the payments were made against the bills submitted, but the bills so submitted are false and fraudulent is still subject matter of the investigation. Applicant is not the person who had prepared the bills and therefore, after overall consideration, I am inclined to allow this application.
9. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the

following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha