

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1710 of 2018

- Nandkishor Dwivedi S/o Shri Ramdhan Dwivedi Aged About 55 Years
Ex District Education Officer- Raigarh, R/o A- 15, Rajaswa Colony,
Bilaspur, Civil And Revenue District- Bilaspur, Chhattisgarh.

---- Appellant

Versus

- State of Chhattisgarh Acting Through Anti Corruption Bureau Raipur,
District- Bilaspur, Chhattisgarh.

---- Respondent

For Applicant : Mr. K.A. Ansari, Sr. Adv. with Mr. Devesh G. Kela,
Advocates.
For Respondent : Mrs. Madhunisha Singh, PL.

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

15/01/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.35/2017 registered at Police Station-Anti Corruption Bureau, Raipur, District – Bilaspur (C.G.), for the offence punishable under Sections 13(1)(e) & 13(2) of the Prevention of Corruption Act. The applicant is a District Education Officer and presently posted at Raigarh. He was never arrested by the respondent during the pendency of investigation against him. He has been informed that charge-sheet has been filed against him, hence, he has apprehension of being arrested by the

process of the Court.

2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. The assets found in possession of the applicant have been over valued in the investigation on the basis of valuation made on the date of raid, whereas the same had been acquired much earlier at the lesser price. The applicant had submitted Form-1, 2 & 3 i.e the explanation regarding the assets in his possession, in which he had mentioned about his agricultural income, the gift given by the relatives and the rent that he received from his ancestral property but the same had been not taken into consideration only for the reason that the applicant had omitted to furnish these information with his department. As the charge-sheet has now been filed, therefore, there is no requirement of any custodial interrogation of this applicant by the investigating agency, hence, it is prayed that applicant may be released on anticipatory bail.
3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that this applicant had misused his position as public servant and amassed huge wealth by accepting illegal gratification, hence, he is not entitled for grant of bail anticipatory bail.
4. Heard both the parties and perused the case diary.
5. The applicant was appointed in the year 1989 in the Education Department as Lecturer and he has been given promotion from time to time and presently he is holding the post of District Education Officer. A raid was conducted by ACB on 23.4.2016 in the premises of applicant and an inventory was made about the articles and other assets found in his possession. In the investigation it has been found that during the

check period between 1.4.2002 and 23.3.2016 the income of the applicant from lawful sources was Rs.57,70,455/-, whereas he has made expenditure of Rs.1,39,56,489/-. Thus, the assets found in access are disproportionate to his known source of income. Hence, this case.

6. Considered on the material present in the case diary. Considering the fact that the charge-sheet has already been filed and therefore the applicant will not be required for custodial interrogation and further considering that he has never been arrested by the respondent; at present he has to only face the trial pending against him and that he is still a public servant, I am of this opinion that applicant deserves to be benefited with grant of anticipatory bail.
7. 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/- (Rupees Twenty Five Thousand only) 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