

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 43 of 2020

- Hotam Singh Mourya S/o Deviram Mourya, Aged About 48 Years, R/o District Jail, Jashpur, District Jashpur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Tapkara, District Jashpur, Chhattisgarh.

---- Respondent

For Applicant	: Shri Gautam Khetrapal, Advocate.
For Respondent/State	: Shri Anand Verma, Dy. G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

03/02/2020

1. The applicant has filed this bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as he is apprehending his arrest in connection with Crime No. 111/2019, registered at Police Station Tapkara, Distt. Jashpur (C.G.) for the offence punishable under Sections 120-B, 409, 420, 467, 468 of the IPC.
2. As per prosecution story, one Sadai Ram made a complaint before Superintendent of Police stating therein that he and his wife Bhimati Bai are having two sons and the younger son Niranjana Yadav killed his mother (Bhimati Bai) and for that he is serving jail sentence in Central Jail Ambikapur. During the period of jail sentence, as per the Rules of Jail,

50% of the income of the prisoners has to be received from their relatives and therefore, on 02.03.2015, the complainant Sadai Ram Yadav received one installment from the jail of Rs. 6,354/- through cheque and withdrawn the same from the bank, thereafter for a long time, no amount has been received by the complainant from the Jail, therefore, he went to jail in the year 2018 and after enquiry, he found that the amount of Rs. 21,200/- has already been withdrawn by one lady namely Nisha Yadav by impersonating herself as daughter of Sadai Ram Yadav and the same has been withdrawn by preparing forged documents. Allegedly, the amount has been withdrawn by the present applicant in connivance with other co-accused Uttam Kumar Patel. It is further alleged that at the relevant time applicant was posted as *Prahari* and also worked as Accountant. On the basis of said background, offence has been registered.

3. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that *prima facie*, no case can be made out against the applicant. There is nothing on record on the basis of which it can be said that at the relevant time applicant was posted as Accountant and had performed his duty as Accountant. Also, there is no relevant note-sheets prepared by applicant in this regard. The cheques from where the amount was withdrawn were signed by co-accused Uttam Kumar Patel, Assistant Jail Superintendent. He further submits that there is nothing on record on the basis of which *prima facie*, it is established that any amount has been received by the applicant. In departmental enquiry regarding compensation distribution, irregularity of Rs. 7,75,815/- has been found in part of the applicant and on 06.07.2019, as directed by the higher officials, the applicant has deposited the said amount through cheque. It is further

submitted that co-accused Uttam Kumar Patel has already been granted anticipatory bail by this Court vide order dated 28.01.2020 passed in MCRCA No. 103/2020. Looking to the above, it is prayed that applicant may also be granted benefit of anticipatory bail.

4. Per contra, learned Counsel appearing on behalf of State opposes the bail application.
5. I have heard learned Counsel for both the parties and perused the case diary 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 further considering the fact that co-accused Uttam Kumar Patel who signed the cheques has already been granted anticipatory bail by this Court vide order dated 28.01.2020 passed in MCRCA No. 103/2020, 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 anticipatory 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 his 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/her from disclosing such fact to the

Court,

- (ii) He shall not act in any manner which may 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

Prakash