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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.89 of 2020

Bhupendra Singh Kshairiya @ Bhupendra Thakur S/o lt. Shri Ram Singh Kshairiya Aged About 49 Years Then Society Manager, At Aadim Jaati Seva Sahkari Samiti, Khodri (Registered No. 3083) Khodri, Pendra Road/ Gaurela, District Bilaspur Chhattisgarh **---- Applicant**

Versus

Union Of India Through Superintendent Of Police, Central Bureau Of Investigation, ACB District Raipur Chhattisgarh **---- Respondent**

For Applicant	:	Mr. Pragalbha Sharma, Advocate.
For Respondent/UOI	:	Mr. B. Gopa Kumar, ASG

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

01/07/2020

Heard.

1. The applicant is apprehending his arrest in connection with FIR/Crime No.RC1242018S0007 registered at Police Station–Central Bureau of Investigation, ACB, District Raipur (C.G.) for alleged commission of offence under Section 120-B/420, 409, 477(A) of IPC.

2. Prosecution allegation is that during the period the applicant was posted as clerk and then as In-charge manager of Adim Jati Seva Sahkari Samiti, Khodri, he, in conspiracy with the Manager, siphoned and misappropriated huge public fund to the tune of Rs.18,28,158/-.

3. Learned counsel for the applicant would argue that the allegations against the applicant are of withdrawal of certain amount over a long period from the year 1996 to 09.07.2001 while working as clerk and thereafter, from 10.07.2017 to 05.10.2018 as In-charge Manager. He would submit that it is old and stale matter pertaining to certain alleged defalcation done during those period in respect of which FIR has been lodged belatedly in the year 2018. Since then, the applicant has fully cooperated with the investigating agency

and statement has also been recorded. Learned counsel for the applicant submits that looking to the nature of allegation, it requires seizure of collection of documentary and evidences only which has already been done by the investigation and custodial interrogation is not necessary. Further, it is submitted that the applicant has certain ailment also. Therefore, in view of decision of the Supreme Court in the case of **Dataram Singh Vs. State of Uttar Pradesh And Another, 2018 (3) SCC 22**, the applicant may be granted anticipatory bail with appropriate conditions. He would also submit that pursuant to direction issued by the High Court in batch of writ petitions, number of criminal cases on similar allegations were registered against employees, manager of other cooperative society and when they approached this Court, many of them have been granted anticipatory bail mainly on the ground that the custodial interrogation is not necessary.

4. On the other hand, learned Assistant Solicitor General would submit that in batch of writ petitions, this Court issued direction on 25.07.2016 for making enquiry registering offences the finding that crores of rupees of many cooperative societies have been siphoned and misappropriated, which came to light when prayer for refund was made by borrowers/members of the agriculture service society. He would submit that looking to the gravity of allegations, this Court referred the entire matter to the CBI for investigation and filing of charge-sheet against the culprits. Pursuant to the aforesaid direction, CBI investigated into the matter and in large number of societies, different kind of financial irregularities were found. In particular, in the present case, the applicant was found having defalcated huge amount of more than 18 lacs over a period by constantly withdrawing money from the funds of the bank without making entry of those withdrawals in the petty cash book during the period he was posted as In-charge Manager of the society. On complaints made, special audit was done and in the audit report dated 05.08.2019, this misappropriation of public fund on large scale came to the light.

5. Taking into consideration the magnitude of the offence, particularly taking into consideration that the matter was investigated under the judicial directions issued by this Court in batch of petitions and further taking into consideration that the material available with the prosecution prima facie shows that the applicant, during the period of his posting in the concerned society, kept on withdrawing money without making any entry in petty cash

book and thereby a misleading closing balance was maintained relating in defalcation of Rs.18,28,158/-, it being a case of defalcation and misappropriation of public money lying in the fund of an agriculture credit society and the money belong to agriculturist/members of the society and further that the anticipatory bail has been granted under different crime number and different cases and not under the same case as in the present case, the application for grant of anticipatory bail is rejected.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E

Rekha