

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 152 of 2020

Subhash Kumar Agrawal S/o Late Kishan Agrawal Aged About 58 Years R/o Near Shyam Mandir, Kanya Bhawan Road, Kharsia, Tehsil Kharsia, District Raigarh Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Akaltara, District Janjgir-Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh

---- Respondent

For Applicant	: Mr. Manoj Paranjpe, Advocate.
For Respondent/State	: Mr. Alok Nigam, G.A.
For objector	: Mr. Ratnesh Kumar Agrawal, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

19/03/2020

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. 339/2019, registered at Police Station Akaltara, Distt. Janjgir Champa (C.G.) for the offence punishable under Sections 420, 418, 419 & 409 of the IPC.
2. As per prosecution story, an FIR has been lodged inter-alia on the allegations that from 04.04.2016 to 31.03.2018 certain irregularities committed in the matter of construction of road from Nagarda to Baradwar. It was alleged that vide contract bearing No. 86/DL/2016-17 the contract for construction of the said road was awarded to the applicant. Allegedly, the applicant without any authority, sub-let the work to co-accused Dhruwkumar Agrawal for construction of said road. It was alleged that at the time of clearance of bills of the said contract, forge affidavits and documents were submitted. On the said complaint, the enquiry was held and in the said enquiry certain pith passes submitted by contractor contents the number of swift car and two wheelers and motor cycles, which shows that the documents submitted before the authority pertaining to the payment of royalty are forged documents and thereby the applicant and other co-accused persons have committed the crime of cheating and

misappropriate the government fund. 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 present case. He further submits that the applicant is a Registered Contractor with PWD and he is a class-A contractor. For construction of the aforesaid work order, issued in favour of the applicant dated 04.03.2017 Annexure A-2 thereafter, he sub-let the said contract to co-accused Dhruvkumar Agrawal. Referring the agreement executed between the applicant and co-accused Dhruvkumar Agrawal Annexure A-3, it has been submitted by the counsel that according to the conditions Nos. 1.7, 1.8 & 1.9 of the said agreement, the co-accused is responsible regarding execution of work. The entire work was executed by co-accused Dhruvkumar Agrawal in light of specific terms and conditions referred to the agreement. According to the well settled procedure, the royalty is to be deposited in advance by lessee and on production of proof of said deposit, the mining department is bound to issue the royalty challan and at the time of transportation of the minor mineral, the lessee is bound to issue a slip according to the weight of the minor mineral. According to the Counsel, it is an admitted position that royalty deposited in advance to the mining department and no loss was caused to the mining department as per Annexure A-4. Certificate pertaining to the payment of royalty was also cross verified by the office of Collector (Mining Department) and no ambiguity was found in the said certificates. The counsel further submits that due to inadvertent typographical mistake, at the time of summarizing the details of date of transportation, quantity and serial number of the royalty payment slip, certain numbers of the vehicles were wrongly been typed in the said list, whereas the documents i.e. royalty payment receipts does not contain the said numbers of the vehicles, this mistake is bonafide. The Counsel further submits that the complainant has lodged the complaint just to score the personal grievance with the co-accused Dhruvkumar Agrawal because Dhruvkumar Agrawal earlier has lodged an FIR against the complainant. Neither the mining department nor the PWD has any grievance and the authorities have already cross verified the fact of payment of royalty. The Counsel lastly submits that all the allegations were made against co-accused Dhruvkumar Agrawal and he has already been arrested. Hence, it is prayed that the applicant may be granted benefit of anticipatory bail.

4. Per contra, learned counsel appearing on behalf of the State and objector opposes the bail application.
5. I have heard learned Counsel for both the parties and perused the case diary minutely.
6. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties and further considering the fact that the work was executed by co-accused Dhruvkumar Agrawal who has already been arrested. Without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant anticipatory bail to the applicant.
7. Accordingly, the anticipatory bail application is allowed.
8. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond in the sum of Rs. 25,000/- with one solvent surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:-
 - I. That accused/applicant shall made himself available for interrogation before the concerned Investigating Officer as and when required;
 - II. The accused/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. The accused/applicant shall not act, in any manner which will be prejudicial to fair and expeditious trial; and
 - IV. The applicant 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