

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURMCRCA No. 466 of 2020

1. Shrikant Dubey S/o Shri D.N. Dubey (Wrongly Mentioned As D.S. Dubey In Impugned Order), Aged About 51 Years R/o 03 Nehru Nagar, Mungeli Road, Bilaspur, P. S.- Civil Lines, District- Bilaspur, Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through The Anti Corruption Bureau/Economic Offence Wing, Gaurav Path, Opposite Jai Jawan Petrol Pump, Telibandha, Raipur, District- Raipur, Chhattisgarh.

---- Respondent

For Applicant	Mr. Prateek Sharma, Advocate
For Respondent /State	Ms Fouzia Mirza, Addl. Adv. General
For Objector	Mr. Soumya Rai, Advocate

Proceedings through Video Conferencing**Hon'ble Mr. Justice Prashant Kumar Mishra****Order On Board****17/7/2020**

1. The applicant has preferred this application for grant of anticipatory bail, as he apprehends his arrest in connection with Crime No.24/2019, registered at Police Station ACB/EOW, Raipur for offence punishable under Sections 409 & 120-B of the Indian Penal Code and under Section 13 (1) (a) of the Prevention of Corruption Act, 1988.

2. At the relevant time the applicant was posted as Assistant Commissioner, Tribal Development Department/Project Coordinator, Korba. The FIR at Police Station ACB/ EOW, Raipur, has been registered on 16-10-2019. During the relevant period he was also working as Nodal Officer for disbursement/ allotment of funds belonging to District Mining Fund (for short 'DMF'). The applicant sanctioned various works to be executed from DMF. On receipt of complaint, preferred by the objector, who is a member of ruling party and is Member, Zila Panchyat, Korba, before the State Government, a 3 member enquiry team was constituted on 25-3-2019 and thereafter, 6 member enquiry team was constituted on 1-4-2019. Subsequently, a 5 member enquiry team was constituted on 27-5-2019.
3. The case diary submitted to this Court contains undated enquiry report signed by Mr. B.R. Banjare, Assistant Commissioner, Tribal Development, Korba, with reference to the order passed by the Commissioner, Scheduled Castes and Scheduled Tribes Development Department, Raipur, on 14-3-2019.
4. Interestingly, the enquiry report filed by the objector as Annexure-D/3 refers to 4 different orders, the first one passed by the Secretary, Scheduled Castes and Scheduled Tribes Development Department, Government of Chhattisgarh, Raipur, on 14-3-2019; the second order passed by the Collector-cum-District Magistrate, Korba, on 25-3-2019; and the third order on 1-4-2019 and thereafter the fourth order on 27-5-2019. These 4 orders are referred in the report Annexure – D/3 whereas the case diary contains the fifth order of the

Commissioner, Scheduled Castes and Scheduled Tribes Development Department, Raipur, on 14-3-2019.

5. Pursuant to the order dated 14-3-2019 of the Commissioner, Scheduled Castes and Scheduled Tribes Development Department, Raipur, a single member team has submitted a report, which is available in the case diary whereas Annexure-D/3 is signed by 3 members enquiry team despite the fact that by order dated 27-5-2019, referred to under Annexure – D/3, a 5 member enquiry team was constituted. Prior to this 6 member enquiry team was constituted on 1-4-2019. There is no reference to nor report of any such 6 member committee or 5 member committee is available in the case diary.
6. Be that as it may, the report Annexure-D/3 and the single member report available in the case diary would refer to various constructions made from the funds allotted to different departments from DMF. In all the construction works the allegation is only to the effect that the tender process was not properly followed giving undue benefit to the contractor. There is no allegation that the subject construction works were never carried out or that the quality of construction work or any other work was inferior. Likewise, there is no allegation that the applicant embezzled/ defalcated/misappropriated any particular amount and retained the same for his own use. The FIR has been registered on 16-10-2019, but the concerned police has not taken any steps for preparing the list of properties acquired through the defalcated amount, if any. The allegations are only to the effect that certain fixed procedures were not

followed while awarding contract and that some tenders were floated without prior administrative or technical approvals and further that subsequent to the grant of original contract the scope of works were expanded.

7. Learned counsel appearing for the applicant would refer to the answer given by the office of the Assistant Commissioner, Tribal Development, Korba, to the objections/comments of the office of the Accountant General. He would argue that all the objections raised by the Accountant General were duly answered by the department with due approval of the Collector. He would, thus, argue that there was absolutely no irregularity or illegality in execution of work from the funds allotted from DMF. Learned counsel would also argue that soon after registration of FIR the applicant was suspended, however, by order dated 18-6-2020 (Annexure – A/3) he has been reinstated in service and has now been posted as Assistant Commissioner, Tribal Development, Bijapur. He would next submit that the applicant was a witness in a crime registered against the objector herein wherein he was involved in molestation of minor inmate girls.
8. On the other hand, learned counsel appearing for the State as well as the Objector would oppose the bail application.
9. Having heard learned counsel for the parties and having perused the case diary, it appears case of the ACB/EOW is based on enquiry report. It is strange that case diary contains only one report signed by one member whereas the objector is in possession of enquiry report signed by 3 member team albeit in the same report it is referred that the Collector, Korba had constituted 5 members enquiry team consisting of

(1) Ms Priyanka Rishi Mohabiya, Additional Collector, Korba; (2) Mr. B.R. Banjare, Project Administrator, ICDD, Korba; (3) Mr. G.S. Jagriti, District Treasury Officer, Korba; (4) Mr. N. Swany, Executive Engineer, PWD, Korba; and (5) Mr. N.K.S. Dixit, Assistant Commissioner, Tribal Development, Korba.

10. The aforesaid the report is signed by 3 members namely; Ms Priyanka Rishi Mohabiya, Additional Collector, Korba; Mr. B.R. Banjare, Project Administrator, ICDD, Korba; and Mr. G.S. Jagriti, District Treasury Officer, Korba. It does not contain the signatures of Mr. N. Swany, Executive Engineer, PWD, Korba; and Mr. N.K.S. Dixit, Assistant Commissioner, Tribal Development, Korba. It is also to be seen that there is no material in the case diary indicating amassing of wealth through the proceeds of the subject tenders/works. The applicant is a Government servant and has already been reinstated in service by the State Government.
11. In view of the above discussion and considering all relevant aspects of the matter, this Court is inclined to release the applicant on anticipatory bail.
12. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicant, he shall be released on anticipatory bail on his executing a personal bond for a sum of Rs.2,00,000/- (Rupees Two Lacs Only) with one surety in the like sum to the satisfaction of the arresting officer with the following conditions:-
 - (a) he shall make himself available for interrogation by a police officer as and when required;

- (b) 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 from disclosing such facts to the Court or to any police officer.
- (c) he shall not influence the witnesses during pendency of the trial.

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri