

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.990 of 2020**

- Santram Baiga S/o Shri Modi Baiga Aged About 31 Years Caste Baiga (Scheduled Tribe), R/o Village Bijara Kachhar, Police Out Post Khudiya, Police Station And Tahsil Lormi, District Mungeli, Chhattisgarh., District : Mungeli, Chhattisgarh

---- Petitioner**Versus**

- State Of Chhattisgarh Through Police Out Post Khudiya , Police Station Lormi , District Mungeli, Chhattisgarh., District : Mungeli, Chhattisgarh

---- Respondent

For Applicant	:	Shri Rajkamal Singh, Advocate
For Respondent/State	:	Smt. Hamida Siddiqui, Dy.AG

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****16/12/2020**

Heard.

1. The applicant has preferred this application under Section 438 of Cr.P.C., apprehending his arrest in connection with Crime No.226/2020, registered at Police Outpost Khudiya, Police Station Lormi, District Mungeli for alleged commission of offence under Section 420, 409, 467, 468, 471/34 of IPC.
2. Case of the prosecution is that during the period, when the applicant was posted as Chairman of the Forest Development Committee, certain development works were executed by the Society, which were allotted to it by the Forest Department. Allegation of the prosecution is that various materials like cement, bricks, boulders were shown to have been purchased in the records of the society and also payments made against the use of JCB total amounting to Rs.23,28,611/-, but the applicant and other co-accused, the Secretary of the Society embezzled the entire amount without any work done, for which, materials are said to have been purchased from the different sources.
3. Learned counsel for the applicant would argue that the applicant is being harassed by the false implication. He would submit that the some person had made similar allegation in the past i.e. in the year 2015 that no work was done

and complaint was inquired by the office of the Sub Divisional Officer(Forest), Lormi and in the detailed report, it was stated that the construction work of C.C.Road, Pond, Canal and other connected works were actually found having been done and the valuation was arrived at Rs.26.81 Lakhs. However, after five years, the same complainant again started making complaint against the present applicant, whereas earlier complaint was against the then Forester/Secretary of the Society.

4. On the other hand, learned counsel for the State/non-applicant opposes the bail application by submitting that though, earlier enquiry was conducted and work was said to have been performed at the spot and again when complaint was made, the matter was again verified and it was found that various bills for purchase of cement and other construction materials were found to be forged and fabricated, because the Supplier denied having supplied any such material. Therefore, prima facie case is made out and the applicant is prima facie involved in embezzlement of huge amount of public fund. Learned State counsel referring to subsequent report submits that the work was not up to the mark.

5. On prima facie consideration, it is found that the same complainant had earlier made a complaint in the year 2015 that the work was not done and the embezzlement had take place. The complaint was enquired into and the applicant has placed on record the report dated 22-07-2015 of the Sub Divisional Officer (Forest), Lormi Sub Division. This report shows that various construction works valued at Rs.26.81 Lakh were found at the spot and there is specific report that the valuation of the work is equal to the expenditure shown in the records of the society. In that report, it is reflected that the complaint was made against the then Secretary, who happened to be Forester of the area.

6. Now, the complainant has again made a complaint in the year 2020 against the present applicant, which is based on the allegations that various bills of purchase of construction articles were found to be forged as Supplier denied having supplied such items.

7. Taking into consideration the report dated 22-07-2015, it is prima facie made out that construction work was actually carried out valued at Rs.26.81 lakh and it is clear that the allegations were made against the then Secretary and not against the present applicant and that, at the spot, materials have been found to be used, the present is a fit case for protecting the applicant by grant of anticipatory bail.

8. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he will be

released on bail by the arresting officer on his furnishing a personal bond for a sum of Rs.25,000/- with one local surety for the like amount to the satisfaction of the arresting officer with following further conditions that:

- (i) the applicant shall make himself available for interrogation by a police officer as and when required;
- (ii) 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) the applicant shall cooperate with the investigation as and when he is called.

Certified copy as per rules.

SD/-
(**Manindra Mohan Shrivastava**)
Judge