

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1042 of 2020

- Padam Singh Sethiya S/o Shri Lt. Sampat Singh Sethiya Aged About 61 Years R/o Village/ Thana Gadiras, Tahsil / District Sukhma, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Chindgarh, District Sukhma, Chhattisgarh.

---- Respondent

For Applicant	: Shri T.K. Jha, Advocate
For Respondent/State	: Shri Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

24/09/2020

1. Heard through video conferencing.
2. The applicant has preferred the first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 13/2020 registered at Police Station Chindgarh, District – Sukhma, (C.G.) for the offence punishable under Section 409, 34 of the Indian Penal Code.
3. According to the case of the prosecution, present applicant was transferred from paddy procurement centre, Gadiras to LAMPS Chindgarh and he joined at Chindgarh on 31.12.2019. From 1.12.2019 to 30.12.2019 co-accused Ramcharan Nayak was posted at said

paddy centre and he purchased the paddy at procurement centre, Chindgarh during the said period. On 14.5.2020 a physical verification was conducted in the said paddy procurement centre where it was found that in the year 2019-2020, 68,623.60 quintal paddy was purchased and out of which 66,160 quintal paddy was given to MARKFED for custom milling. As per record, 24.63 quintal should have been in the stock but on physical verification only 620 quintal was found, as such there was shortage of 1951.60 quintal of paddy amounting Rs. 48,00,000/-. On the basis of the enquiry report dated 21.5.2020, F.I.R. has been lodged by Assistant Food Inspector on 22.5.2020 against present applicant and other co-accused persons.

4. Learned Counsel appearing for the applicant submit that applicant is innocent and has been falsely implicated in the present case. He further submits that present applicant joined paddy procurement centre on 31.12.2019 and from 29.1.2020 to 18.3.2020 applicant was on medical leave due to health problem. He further submits that according to the guidelines, the purchased paddy should have been lifted by the markfed within 72 hours, but despite of repeated request made by paddy procurement centre annexed as Annexure A/6,7,8 & 9 paddy was not lifted and the damage has been caused due to heavy rain and other reasons. Learned Counsel further submits that there is an arbitration clause in the agreement but F.I.R. has been lodged contrary to the provisions of the agreement. Also, no inquiry has been done regarding shortage of the paddy and without submitting inquiry report, FIR has been lodged. *Prima facie*, no offence is made out against present applicant. Therefore, it is prayed that applicant may be

granted benefit of anticipatory bail.

5. Learned Counsel appearing for the State opposes the anticipatory bail application.
6. I have heard learned Counsel appearing for the parties and perused the material available.
7. 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 after due perusal of the contents of the annexed documents referred by the Counsel for the applicant, and on perusal of the agreement, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.
8. Accordingly, the anticipatory bail application is allowed.
9. 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 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 from disclosing such fact to the Court,
 - (ii) He shall not act in any manner which will 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