

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 1190 of 2020

Nand Kumar Suryawanshi S/o Jugut Ram Suryavanshi Aged About 40 Years
R/o Vill And Post Kathiya, Tahsil And District - Raipur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Acting Through Officer-In-Charge Police Station- Rakhi,
District - Raipur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Lukesh Kumar Mishra, Advocate.
For Respondent/State	: Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

14/10/2020

1. The matter is heard through video conferencing.
2. 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. 70/2020, registered at Police Station Rakhi, Distt. Raipur (C.G.) for the offence punishable under Sections 409 of the IPC and Sections 3 & 7 of Essential Commodities Act (added later on).
3. According to the case of prosecution, on 01.04.2019, Food Inspector conducted inquiry/physical verification at Ration Shop operating under the Public Distribution System run by Gramin Seva Sahkari Samiti, village Kathiya and at the time of said inquiry/physical verification it was found that 122.72 Quintals of Rice, 4.49 Quintals of Sugar, 5 Quintals of Salt and 150 litres of Kerosine found in shortage. Thereafter, on 24.07.2020, a complaint has been filed by complainant KC Adwani. On the basis of said complaint, offence has been registered.
4. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the present case. Prima facie no case can be made out against the applicant. He further

submits that on 26.06.2018, services of the applicant was terminated vide Annexure A/3. Thereafter, the applicant preferred a petition against said termination before the Court of Sub-Registrar, Sahkari Sansthaein, Raipur, the petition was allowed and the society was directed to reinstate the applicant. Thereafter, against said order of Sub-Registrar, the society preferred an appeal before the Registrar, Cooperative Societies, Chhattisgarh which was dismissed and order passed by Sub-Registrar was restored and thereby the society was directed to reinstate the services of the applicant. Despite the order of the Sub-Registrar and the Registrar, Cooperative Societies, the Society deliberately and arbitrarily stood in non-compliance of the said orders and the applicant was not reinstated. The applicant filed a representation for compliance of the aforesaid orders before the Registrar, Cooperative Societies, C.G. and on the said representation, The Registrar again issued an order on 19.12.2019 for reinstating the services of the applicant immediately. Despite of said orders, till date, services of the applicant has not been reinstated. Thus, it is well established that since 26.06.2018 from till date, the applicant not engaged with the services of the Society and without any material available against him, he has been implicated in this case. The Counsel further submits that at the time of alleged offence one Sanat Kumar Gilhare was serving as salesman at the said Ration Shop, he was entrusted with and had dominion over the food grains and other stock mentioned in the FIR. On 01.04.2019, the alleged inquiry was carried against Sanat Kumar Gilhare and the Sub-Divisional Officer, Abhanpur, District Raipur, after due inquiry found that Sanat Kumar Gilhare had misappropriated and had committed criminal breach of trust and initially vide order dated 10.07.2020 (Annexure A-8), the Sub-Divisional Officer, directed the complainant to lodge an FIR against Sanat Kumar Gilhare. Surprisingly, the FIR has been lodged against the present applicant. Hence, it is prayed that the applicant may also be granted benefit of anticipatory bail.

5. Per contra, learned counsel appearing on behalf of the State opposes the bail application.
6. I have heard learned Counsel for the parties.
7. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing

for the parties, documents annexed with the bail application, it appears that on the date of inquiry/physical verification dated 01.04.2019, the applicant was not in the services of the society further Sub-Divisional Officer, directed the complainant to lodge an FIR against Sanat Kumar Gilhare but the FIR has been lodged against the applicant, 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.

8. Accordingly, the anticipatory bail application is allowed.
9. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond for a 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