

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUROrder reserved on 02-12-2020Order delivered on 08-12-2020MCRCA No. 1133 of 2020

1. Moh. Anash Rizvi S/o Bilal Ahmed Rizvi Aged About 38 Years R/o- House No. 102, Sadar Road (In Front Of Dr. Gupta), Ward No.-12, Gobra Nawapara, Tehsil- Abhanpur, District- Raipur, Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through Police Station- Gobra Nawapara, District- Raipur, Chhattisgarh

---- Respondent

For Applicant Mr. Y.S. Thakur, Advocate

For Respondent /State Mr. Ravish Verma, Govt. Advocate

Hon'ble Mr. Justice Prashant Kumar Mishra

CAV Order

1. The applicant has preferred this ***first bail application for grant of anticipatory bail***, as he apprehends his arrest in connection with Crime No.264/2020, registered at Police Station Gobra Nawapara, District Raipur (CG), for offence punishable under Sections 409 & 420 of the Indian Penal Code and Sections 3 & 7 of the Essential Commodities Act, 1955.

2. The applicant is Salesman of the Fair Price Shop (FPS) of Ward Nos.3, 4, 14 & 15 run by the Navoday Prathmik Sahakari Upbhokta Bhandar, Nawapara, Rajim. In physical verification conducted by the Food Inspector on 17-7-2019 the said shop was found in short of 761.34 quintals of rice; 14.32 quintals of sugar; and 19.52 quintals of salt total valued at Rs.29,50,280/-. To explain the shortage the applicant was issued show cause notice on 26-7-2019 and thereafter the present FIR was lodged on 11-7-2020.
3. It is argued that the applicant is an employee being Salesman of FPS of the concerned Wards run by the Cooperative Society, therefore, even if any short fall is noticed the responsibility is of the society and not of any employee. It is also argued that the FIR is delayed by about one year.
4. Learned counsel for the State would oppose the bail application. He would submit that the food grains of the whopping amount of Rs.29,50,280/- has been misappropriated, therefore, the applicant is not entitled to be released on anticipatory bail.
5. Case diary contains physical verification comparing the entries in the tablet (Gadget) and the physical quantity available. It appears from the panchnama that the register was filled only till May, 2019 and thus the entries of June & July were not made in the physical register. It also appears that the notice issued by the Sub Divisional Officer (Revenue), Abhanpur, dated 26-7-2019 is addressed to the President/Salesman of the Society, but there is no document that notice was, in fact, served on the President nor the FIR has been lodged against the President of the Society. The

food grains are entrusted to the licensee and not to the employee of the licensee, therefore, in the event of any short fall the primary responsibility is of the President or office bearers of the Society unless they come forward to allege that the entire misappropriation has been done by the Salesman without their notice.

6. Case diary also does not contain any statement of the office bearers of the society. Moreover, for a physical verification conducted on 17-7-2019 the FIR was lodged on 11-7-2020 i.e. after almost about a year. In the statement of Food Inspector Smt. Veena Kiran it is mentioned that at the relevant time one Dhanraj Jagwani was the President. Ragini Jain was the Vice President and Pramod Gupta was the Director of the Society, but she is unable to state as to why these office bearers did not inform about the misappropriation to the Government.
7. Moreover, the case diary also contains statement of two consumers namely; Vimla Yadav & Mehaboob Khan who have stated that they always received the food grains of the concerned FPS of which the applicant is Salesman. There is no statement of any consumer who has complained about non-supply of food grains from the FPS of which the applicant is the Salesman.
8. Considering the entirety of the circumstances and the material available in the case diary as also delay in lodging the FIR, this Court is inclined to release the applicant on anticipatory bail.

9. 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.50,000/- (Rupees Fifty Thousand Only) with one surety in the like sum to the satisfaction of the arresting officer with the following conditions:-

- he shall make himself available for interrogation by a police officer as and when required;
- 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.
- he shall not influence the witnesses during pendency of the trial.

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri