NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on 16-09-2020

Order delivered on 23-09-2020

MCRCA No. 1237 of 2020

1. Set Ram Chouhan S/o Shri Indrajeet Chouhan, Aged About 40 Years R/o Village Kewatpali, Tahsil Basna, District Mahasamud Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through The Station House Officer, Police Station Sakti, District Janjgir-Champa Chhattisgarh.

---- Respondent

For Applicant	Mr. Raghvendra Pradhan, Advocate
For Respondent /State	Mr. Gagan Tiwari, Dy. Govt. Advocate

Proceedings through Video Conferencing

Hon'ble Mr. Justice Prashant Kumar Mishra

Order On Board

1. The applicant has preferred this ***second bail application for grant of anticipatory bail***, as he apprehends his arrest in connection with Crime No.43/2020, registered at Police Station Sakti, District Janjgir-Champa(CG), for offence punishable under Sections 420, 467, 468, 471, 409 read with Section 34 of the Indian Penal Code.

2. The earlier bail application of the applicant was dismissed as withdrawn without mentioning that the prayer for withdrawal

was made after raising arguments, therefore, the second bail application has been entertained, as learned counsel for the applicant insisted for an order on merits.

3. The District Registrar, Janjgir-Champa lodged a written complaint on 29-1-2020 informing the concerned police that 5 accused persons namely; present applicant Set Ram Chouhan, Sub Registrar; Mirza Aslam Baig, In-charge Sub Registrar, Smt. Kanta Ekka, Registration Clerk (In-charge Sub Registrar); Late Gokul Yadav, Peon and Pankaj Yadav, Peon (appointed on compassionate ground) have embezzled an amount to the tune of Rs.50,09,159/- which was detected during audit proceedings.

4. According to the learned counsel for the State, a preliminary enquiry/inspection was made on 14-11-2019 in which some discrepancy in the account ledger was found, therefore, a 5 member enquiry committee was constituted by the IG (Stamps), who submitted report pointing out the embezzlement. According to him, the accused persons after having recovered the stamp duty and registration charges deposited lesser amount in the treasury through the State Bank of India (SBI).

5. Learned counsel for the applicant would submit that it was the applicant who lodged the First Information Report (FIR) on 14-12-2019 and the entire misappropriation, if any, has been committed by the Peon, who manipulated the deposit slip to deflate the figure by making interpolation. According to him, the applicant detected the difference in the ledger/account available in the department and sent intimation to the SBI, therefore, he is not responsible.

6. On the other hand, learned counsel for the State strongly oppose the submission. According to him after preliminary enquiry/ inspection on 14-11-2019 the misappropriation came to the notice of the department, therefore, the IG (Stamps) constituted a 5 member team to inspect/audit the record on 13-12-2019. As soon as the applicant got information about constitution of the committee, he lodged the FIR on the next day i.e. 14-12-2019 to save himself and raise defence against any further action by the department.

7. Having considered the rival submissions and having seen the case diary it appears there is material in the diary proving short fall of Rs.50,09,159/- of which an amount of Rs.24,44,211/- is attributed during the period when the applicant was holding the charge of the office of the Sub Registrar. Since the misappropriation is proved from the Government record and the applicant was Sub Registrar during the relevant period he cannot escape from the liability.

8. Considering the seriousness of the offence as also the *modus operandi* in committing the offence, this Court is not inclined to extend the benefit of Section 438 of the Cr.P.C. to the applicant. Accordingly, the bail application is rejected.

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri