

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1761 of 2019

- Ajit Singh S/o Late Vijay Shankar Singh Aged About 42 Years R/o Behind S. P. Office, Sattipara, Ambikapur, Tahsil Ambikapur, District - Surguja Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Lundra, Surguja, District - Surguja Chhattisgarh.

---- Respondent

For Applicant	: Mr. Manoj Paranjpe, Advocate.
For Respondent/State	: Mr. Sushil Sahu, P.L.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

24/01/2020

1. 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. 37/2012, registered at Police Station Lundra, Distt. Surguja (C.G.) for the offence punishable under Section 408 & 409 of the IPC.
2. In the year 2012, Additional Collector Mr. Nirmal Tigga has carried out the inspection of *Gramin Sewa Sahakari Samiti Batwahi* and in the said inspection, it was found that 8415.9 quintals of paddy was found in shortage amounting to Rs. 93.41 Lakhs. At that time co-accused Ramkumar was the manager of *Adim Jati Sewa Sahakari Samiti Maryadit Batwahi*, Lundra, Surguja (C.G.). Thereafter, on the basis of direction given by Collector Surguja, FIR has been lodged against co-accused Ram Kumar Gupta manager of the said Samiti. After completion of investigation, charge-sheet was filed against Ramkumar Gupta. Present applicant was cited as prosecution

witness in the charge-sheet. During pendency of trial, on the basis of application under Section 319 of Cr.P.C., Trial Court added the applicant as an additional accused. It is further alleged that at the relevant time, the applicant was posted as Manager in the said Samiti and after purchasing of paddy, the cheques were issued and signed by him, therefore, he is also involved in the crime in question. After taking cognizance, learned Judicial Magistrate issued a permanent arrest warrant against the applicant. Hence, this application.

3. Learned counsel appearing on behalf of the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that there was no material available on record before the Trial Court, on the basis of which any offence can be made against the applicant. From the order dated 04.11.2011, issued by CEO of *Jila Sahkari Kendrit Bank*, Ambikapur (Annexure A-9), at the relevant time, only Ramkumar Gupta was the authorized person who purchased all the paddy, present applicant is only authorized for put signature on cheques. He further submits that after taking cognizance, learned JMFC vide order dated 04.05.2019, issued bailable warrant against the applicant thereafter without service of said bailable warrant vide order dated 17.06.2019, learned JMFC has issued non-bailable warrant against the applicant. On 22.06.2019, without any report of Police Authority, learned JMFC declared the applicant as absconded and issued a permanent arrest warrant against him which is not permissible in the eyes of law. In these circumstances, it is prayed by the learned Counsel for the applicant that the applicant may be granted benefit of anticipatory bail.
4. Per contra, learned counsel appearing on behalf of State opposes the bail application.
5. I have heard learned Counsel for both the parties.

6. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties and further considering the facts that initially charge-sheet has been filed against Ramkumar Gupta, without service of bailable warrant learned JMFC has issued non-bailable warrant against the applicant, without any report of Police Authority, learned JMFC declared the applicant as absconded and issued a permanent arrest warrant against him, further considering the facts that the matter is of the year 2012 and the applicant has implicated as accused only on the basis of application under Section 319 of the Cr.P.C. Without further commenting on other merits of the case, I am inclined to grant anticipatory bail to the applicant.
7. Accordingly, the anticipatory bail application is allowed.
8. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a personal bond in the sum of Rs. 20,000/- with one 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 the accused/applicant shall make 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