

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1833 of 2019

- Dharam Prakash Pathak S/o Late Shri Ramkrishna Pathak Aged About 62 Years Caste Bramhan, Occupation Retired Officer (Retired Senior Agriculture Department Officer, Agriculture Department Chhattisgarh), R/o Kamalpur (Ajabnagar), Police Station Jainagar, Tahsil And District Surajpur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Jainagar, District Surajpur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Rishi Rahul Soni, Advocate.

For Respondent/State : Ms. Smita Ghai, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

10/01/2020

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. 172/2019, registered at Police Station Jainagar, Distt. Surajpur, Chhattisgarh for the offence punishable under Section 409, 120-B of the IPC.
2. As per prosecution story, the applicant along with other co-accused person namely Yadavendra Singh Baghel have defalcated government money amounting Rs. 50,92,659/- (which were received through money receipt number 27701 to 27708) by not depositing the said amount in the government account and adversely the said amount has been misappropriated by them for there personal use. On the basis of said background, offence has been registered.
3. 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. At the relevant time, the applicant was posted as a Senior Agriculture Development Officer and co-accused Yadavendra Singh Baghel was

posted as a Junior Assistant and the co-accused himself committed crime in question. A departmental enquiry was also conducted against Yadavendra Singh Baghel in this regard and he himself admitted that he alone misappropriated the said fund. The applicant is implicated only on the basis that he as a senior officer not verified the accounts. The Counsel finally submits that the applicant is a reputed person of his society and he is a permanent resident of above mentioned address and there is no chance of his absconding, therefore, he 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 fact that in departmental enquiry co-accused Yadvendra Singh Baghel admitted the fact that he alone misappropriated the said fund. 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.
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 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 the 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