

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1858 of 2019

- Komal Dev Nishad, S/o Late Shri L. R. Nishad, Aged About 35 Years Occupation Secretary Village Panchayat, R/o Village Panchayat and Village Mangalnar Block and Tahsil Bhairamgarh, District Beejapur (Chhattisgarh).

---- Petitioner

Versus

- State of Chhattisgarh Through S.H.O., P.S. Jangla, District-Beejapur Chhattisgarh.

---- Respondent

For Applicant : Mr. Avinash K. Mishra, Advocate.
For Respondent : Mr. Sudeep Verma, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

31/01/2020

1. This is 2nd bail application of this applicant for grant of anticipatory bail.
His first application MCRC(A) No.1244 of 2019 was dismissed on merits vide order dated 9.8.2019.
2. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.11/2019 registered at Police Station-Jangla, Distt-Beejapur, Chhattisgarh for the offence punishable under Sections 409 & 420 of IPC.
3. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. It is submitted that circumstances have changed after passing of order of rejection of bail application of the applicant. Allegation levelled at the initial stage that this applicant has embezzled amount sanctioned for construction of

Pradhan Mantri Awas Yojna which were entrusted to him, is now rectified for the reason that the beneficiaries themselves have given in writing their submission exonerating the applicant of the charge of embezzlement by mentioning that other officials are responsible for non-construction of the houses. Further, the inquiry report given by the Deputy Director Panchayat holding the applicant responsible for the embezzlement, based on which FIR was lodged, has now been set aside in an appeal before the Commissioner, Bastar Division vide order dated 23.1.2020, which is another ground for grant of anticipatory bail to the applicant. Hence, it is prayed that the applicant be enlarged on anticipatory bail.

4. Learned State counsel opposes bail application and submissions made in this respect. It is submitted that case of the applicant has already been decided on merits and his application has been rejected by this Court. The circumstances that are being presented before this Court are not the part of the case diary, therefore, there is no reason to entertain this application and grant anticipatory bail to the applicant.
5. Heard both the parties and perused the case diary.
6. On the basis of departmental inquiry report, which is annexed as Annexure-P9 dated 19.6.2019, FIR was lodged and criminal case was registered against the applicant. At the time of passing of rejection order dated 9.8.2019, the situation existed, as it was shown in the departmental inquiry report. However, it appears that thereafter the applicant has filed appeal before the Commissioner, Bastar Division challenging the said inquiry report. The said appeal has been allowed vide order dated 23.1.2020; the finding in the department inquiry report based on which the order of termination dated 18.7.2019 was passed,

has been set aside and the applicant has been reinstated in service. Copy of the report is filed as Annexure-A/3. The outcome of the departmental appeal, exonerating the petitioner of the departmental charges and his reinstatement in service cannot be ignored and hence, this Court is of the opinion that there are substantial change in circumstances subsequent to the order dated 9.8.2019, which makes the applicant entitled for grant of anticipatory bail.

7. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on his executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the 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) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha