

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 2019 of 2019**

- Santosh Navik S/o Harinarayan Navik Aged About 34 Years Occupation-Service, R/o Davankara, Police Station and Tahsil Pratappur, District-Surajpur, Chhattisgarh.

---- Applicant**Versus**

1. State of Chhattisgarh, Through The District Magistrate, Surajpur, District-Surajpur, Chhattisgarh.
2. Sunil Kumar Tiwari S/o Ramkesh Tiwari Aged About 46 Years R/o Godhanpur, Ambikapur, Police Station Ambikapur, District- Surguja, Chhattisgarh.

---- Respondents

For Applicant	: Shri V.K. Pandey, Advocate
For Respondent/State	: Shri Anand Verma, Dy. G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board**10/02/2020**

1. None present for respondent No. 2, though notice served upon him.
2. The applicant has preferred this anticipatory bail application filed under Section 438 of Cr.P.C. for apprehending arrest in connection with Complaint case No. 06/2018 registered before the learned Chief Judicial Magistrate, Surajpur, District – Surajpur (C.G.) for offence punishable under Sections 420, 467, 468, 471, & 409/34 of Indian Penal Code.
3. Facts of the case, in brief, is that respondent No. 2 has filed a complaint case against present applicant and other co-accused persons before J.M.F.C., Pratappur, District – Surajpur (C.G.) alleging *inter alia* that he has opened a saving account in Co-operative Bank to

deposit his income received from agriculture. Finally, on 10.07.2015 he withdrew Rs. 25,000/- from his account. After the said transaction, his bank passbook was mis-placed. Thereafter, complainant/respondent No. 2 made a request for issuance of new passbook to the bank and in turn the bank issued a new passbook. In the year 2015 when complainant obtained the bank statement, he found his bank account nil. It was informed by Bank Manager that withdrawal of the amount has been done on regular interval by using the signature of the complainant. It is further contended by the complainant that at the time of opening of the bank account, the specimen signature given by him, was changed without his consent and the nominee of his account i.e. his wife's name was changed to one Ashok Tiwari. Thus, the payment was made to co-accused Ashok Tiwari. On the basis of the said complaint, J.M.F.C. firstly registered the complaint against co-accused Ashok Tiwari, thereafter, on 25.05.2017 respondent No. 2 preferred a revision before Additional Sessions Judge, Pratappur, District – Surajpur. Thereafter, vide order dated 26.05.2017, the Revisional Court set aside the order dated 27.03.2017 passed by Judicial Magistrate First Class and directed him to take cognizance against the present applicant and Kamal Narayan Pandey. Subsequently, one CRR No. 845/2017 was preferred before this Court by Kamal Narayan Pandey and present applicant and vide order dated 27.07.2018, the said Criminal Revision was allowed by setting aside the order dated 26.05.2017 passed by Additional Sessions Judge, Pratappur, District Surajpur. The matter was then remanded back to the Revisional Court with a direction to decide the

revision afresh after affording opportunity of hearing to the present applicant in accordance with law. Thereafter, on 15.02.2019, Additional Sessions Judge, Pratappur, District Surajpur (C.G.) in CRR No. 08/2017 again directed to take cognizance against present applicant. Thus, apprehending his arrest, applicant has filed the instant anticipatory bail application before this Court.

4. Learned Counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that *prima facie*, no case is made out against present applicant. There is oral allegation against co-accused Ashok Tiwari and there is no evidence available against applicant which shows that applicant has in any manner helped the main accused to commit crime in question. Earlier also, when cognizance was taken against applicant, trial Court vide order dated 06.07.2017, applicant was granted regular bail. The applicant has also not misused the liberty granted to him. The Additional Superintendent of Police, Surajpur after inquiry, submitted the inquiry report in the matter and stated that no offence was committed by the present applicant. Looking to the above, it is prayed that applicant may be released on anticipatory bail.
5. Learned Counsel appearing for the State opposes the bail application.
6. I have heard learned Counsel appearing for the parties and perused the material available with due care.
7. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence

collected by the prosecution and further considering the fact that main allegation is against co-accused Ashok Tiwari, also in the first round of litigation, applicant was granted regular bail and he has not misused the liberty granted to him, therefore, without, further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.

8. Accordingly, the anticipatory bail application is allowed.
9. It is directed that in the event of arrest of the applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on his furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. He shall also abide by all the following terms and conditions :

- (i) 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/her from disclosing such fact to the Court,
- (ii) He shall not act in any manner which may be prejudicial to fair and expeditious trial, and
- (iii) He 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