

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURMCRCA No. 16 of 2021

1. Ashwini Tiwari S/o Late Shri Jeevan Prasad Tiwari Aged About 45 Years Occupation Ex-Project Officer, MNREGA, Block - Wadrafnagar, R/o Basundhara Vihar Colony, Fundurdihari, Police Station Gandhi Nagar, Ambikapur, District Ambikapur, Surguja Chhattisgarh.

Presently Residing At Boirdadar, Police Station Chakradhar Nagar, District Raigarh Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through Station House Officer Police Station Basantpur District Balrampur Ramanujganj Chhattisgarh.

---- Respondent

For Applicant	Mr. Roop Naik, Advocate
For Respondent /State	Mr. Ayaz Naved, Govt. Advocate

Hon'ble Mr. Justice Prashant Kumar MishraOrder on Board2/3/2021

1. The applicant has preferred this application for grant of anticipatory bail, as he apprehends his arrest in connection with Crime No.50/2020, registered at Police Station Basantpur District Balrampur Ramanujganj (CG), for offence punishable under Sections 467, 468, 420 & 409 of the Indian Penal Code and Section 7 (1-13) of the Prevention of Corruption Act, 1988 (for brevity 'the PC Act').
2. At the relevant time the applicant was working as Project Officer, MGNREGA (Mahatma Gandhi National Rural Employment Guarantee Act), Block Wadrafnagar, District Ambikapur (Surguja). He has allegedly defalcated an amount of Rs.30,02,449/- by making payment to the construction agencies/material suppliers without the work having been actually carried out at villages Pendari, Chapota, Gudru, Jamai.

3. It is argued by the learned counsel appearing for the applicant that the offence under Section 7(1-13) of the PC Act has been added deliberately for prosecuting the applicant under the PC Act even though he had resigned from service in the year 2019. Learned counsel further argued that at the relevant time there was a dispute and rivalry between the IAS & IPS Officers, therefore, in order to involve one Ms Jyoti Babli Bairagi, IAS, an enquiry report was submitted naming the said officer also, but the FIR has been registered only against the applicant. It is, thus, argued that the concerned police is acting arbitrarily by proceeding against the applicant.
4. The allegation contained in the case diary is of committing misappropriation of public funds by concocting and manufacturing the records regarding completion of work even though no work has been carried out for all the projects for which the amount has been released to the material suppliers.
5. In so far as the argument concerning illegality by the concerned police in not proceeding against the wrongdoers including Ms Jyoti Babli Bairagi, IAS, the same may not absolve the applicant of his culpability. It is for the concerned police to file final report in form of charge sheet or closure report against other culprits, but at this stage of investigation, it cannot be said that the applicant was not at all concern with the work and yet crime has been registered against him.
6. Having seen the material available in the case diary, this Court is not inclined to extend the benefit of Section 438 of the Cr.P.C. to the applicant.
7. Accordingly, the anticipatory bail application is rejected.

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri