

(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.201 of 2021

- Sanjay Singh, S/o Late Basant Singh, aged about 58 years, Posted as Sub Inspector (M-Ministerial) Office of Superintendent of Police, Mungeli, R/o Jarhabhata, Near Shailendra Apartment, District Bilaspur (CG)

---- Applicant

Versus

- State of Chhattisgarh Through the Station House Officer, Police Station Civil Line, Bilaspur, District Bilaspur (CG)

---- Non-applicant

For Applicant	:	Mr. Shashank Thakur, Advocate.
For Non-applicant	:	Mr. BP Banjare, Dy. Govt. Advocate.

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

13/7/2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.103/2021 registered at Police Station Civil Line, Bilaspur for commission of offence punishable under Section 409/34 of the Indian Penal Code.
2. The prosecution story, in brief, is that present applicant was posted as Salary In-charge, Police Department, Bilaspur from 1.9.2012 to 8.10.2013. During this period, one Constable No.494-Balaram retired from services on 31.7.2013 but even after his retirement, the amount of salary as also pension amount was being deposited in his bank account. On complaint being made by retired Constable Rajkumar Yadav regarding embezzlement of T.A. bills by Constable Rajkumari Kindo and payment of House Rent Allowance (HRA) to Constable Shabina Parveen even after allotment of government residential accommodation to her, an enquiry was conducted in which explanation from present applicant was called for. After receipt of explanation, instant crime was registered for commission of aforementioned offence against

present applicant and co-accused B. Mahar, who, at the relevant point of time, was posted as Subedar, Police Department Bilaspur.

3. Mr. Shashank Thakur, learned counsel for applicant submits that prior to registration of FIR, a departmental enquiry was conducted against present applicant and co-accused B. Mahar. Present applicant submitted his explanation in the departmental enquiry that he was posted as Salary In-charge at Police Department, Bilaspur only upto 8.10.2013. Constable Balarao superannuated from service on 31.7.2013 and due to mistake, he prepared pay-bill of Constable Balarao for the month of August & September. Thereafter, pursuant to his transfer order dated 1.10.2013, he was relieved from the post of Salary In-charge to join at M.T. Department, Bilaspur. He further submits that there is no allegation and material collected by the prosecution against present applicant showing that present applicant has embezzled money after preparing pay-bills in the name of retired employees. It is the case where mistakenly pay-bills are prepared and amount of salary has been deposited in the account of retired employee. He further submits that there is no allegation against present applicant that he has benefited himself from his alleged mistake in any manner or taken money from the beneficiaries who have been erroneously paid amount of salary. He further submits that in the departmental enquiry conducted against present applicant, the Disciplinary Authority after considering enquiry report has imposed punishment of stoppage of one annual increment for one year with non-cumulative effect on present applicant. Allegations as levelled in the complaint with regard to payment of salary and pension both to retired employee is mainly against co-accused Subedar B. Mahar. On the date of relieving of applicant i.e. 8.10.2013, calculation of pension of Constable Balarao was not done nor amount of pension was deposited in his account. He submits that in view of allegations levelled and material available in the case diary,

as on date, it cannot be said that offence under Section 409 of IPC would be made out against present applicant. He submits that applicant is a government servant, hence, he may be extended benefit of anticipatory bail.

4. Per contra, Mr. BP Banjare, learned Deputy Government Advocate for the State opposes the submissions made by learned counsel for applicant and submits that on the date of deposit of amount of salary in the account of retired employee, present applicant was posted as Salary In-charge. He submits that present applicant and co-accused B. Mahar by their acts have caused financial loss of Rs.7,82,211/- to the State Government. He further submits that it is the case where concerned retired employees have not only been paid amount of pension but amount of salary has also been deposited in their accounts, thereby they have been benefited in dual manner. However, he has not disputed this fact that present applicant was relieved from the post of Salary In-charge, Police Department, Bilaspur on 9.10.2013 i.e. within two months from the date of retirement of Constable Balaraao, who has been benefited by paying amount of salary as also pension. It is also not disputed by learned State Counsel that payment of pension to retired Constable Balaro started only from 27.1.2014 and at that time present applicant was not posted as Salary In-charge in Police Department, Bilaspur as he was relieved from the said post much prior to the said date.
5. I have heard learned counsel for the parties.
6. Along with this application for grant of anticipatory bail, the applicant has placed on record copy of enquiry report wherein on same allegations, punishment of stoppage of one annual increment for one year with non-cumulative effect was imposed on applicant by the Disciplinary Authority.
7. Taking into consideration the nature of allegations levelled against present applicant, the fact that applicant has been

transferred from post of Salary In-charge, Police Department, Bilaspur within a period of two months from the date of retirement of employee concerned and even in the departmental enquiry there was no allegation that applicant has benefited himself in any manner by preparing pay-bill of two months of a retired employee during his posting as Salary Incharge, Police Department, Bilaspur, without commenting anything on merits of the case, I am of the view that present is a fit case where applicant is entitled to be released on anticipatory bail.

8. Accordingly, the application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question, he shall be released on anticipatory 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 Arresting Officer. The applicant shall also abide by the following conditions :
 - (i) that he shall make himself available for interrogation before the Investigating Officer as & when required;
 - (ii) that he shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade him/her from disclosing such facts to the Court or to any police officer;
 - (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
 - (iv) that 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/-
(Parth Prateem Sahu)
Judge

roshan/-