

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC (A) No. 574 of 2021

Ganesh Ram Kashyap S/o Farsu Ram Kashyap, Aged About 57 Years,
 R/o Village -Joba, Tehsil Kondagaon, District -Kondagaon, Chhattisgarh.

---- **Applicant**

Versus

State of Chhattisgarh Through The Police Station -Kondagaon, District
 -Kondagaon, Chhattisgarh.

--- **Respondent**

For Applicant	:	Mr. Raza Ali, Advocate.
For State	:	Ms. Anjali Singh Chauhan, Advocate.

(Proceedings through video conferencing)
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

10/08/2021

Heard.

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.305/2020 registered at Police Station – Kondagaon, Distt Kondagaon, (CG), for the offence punishable under Section 409 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that applicant was posted as 'Sub post-master' at Sub-Post Office, Joba. He has taken signature of beneficiaries for withdrawal of amount of Indira Awaz Yozna, but he has not paid cash amount to them. During the course of inspection, some irregularities have been deducted for which on 22.09.2015 enquiry was conducted. In enquiry proceeding, it is found that applicant has misappropriated amount of Rs.90,000/-. Based upon complaint, instant crime is registered against applicant.
3. Learned counsel for the applicant submits that applicant was posted at Sub-Post Office, Joba, hence, amount for making such a huge payment of Rs.90,000/- was not available there. Applicant has to accept withdrawal forms with signature of beneficiaries and thereafter send proposal to Post Master, Kondagaon for sending said amount to Sub-Post Office, Joba. After receiving amount from there, applicant has paid said amount to beneficiaries immediately

without any delay. In the enquiry conducted on 22.09.2015 some irregularities have been deducted but no action has been taken by the department against him. Complaint has been lodged with inordinate delay only on 13.10.2020. Departmental enquiry was also conducted wherein Inquiry Officer has not collected the documents, materials and relevant dates as to when applicant has taken signature of beneficiaries on withdrawal forms, on which date received amount from Post Master, Kondagaon, dates of making payment to beneficiaries. The Appellate Authority vide order dated 14.10.2020 allowed appeal of applicant, after setting aside the order of punishment, remitted back the matter to Inquiry Officer for conducting fresh enquiry in accordance with law from the stage of issuance of charge sheet. He further submits that prima facie there are no material available to implicate present applicant in instant crime. Applicant is a Government servant, hence, he may be granted benefit under Section 438 of Cr.P.C.

4. On the other hand, learned State Counsel opposes the submissions made by learned counsel for applicant and submits that there is specific allegation against applicant in written complaint lodged on 13.10.2020. As per enquiry report, applicant has immediately paid the amount to the beneficiaries. However, on putting a question to learned State Counsel with regard to relevant dates for submission of withdrawal form by beneficiaries, making payment to beneficiaries by applicant, she submits that there is no such document available in case diary showing relevant dates of signing the withdrawal forms by beneficiaries and receiving payment by them.
5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of the case, nature of allegation, the fact that relevant dates of submission of withdrawal forms, withdrawal of amount and making payment to beneficiaries by applicant is not available in case diary, without commenting anything on merits of the case, I am inclined to grant anticipatory bail to the applicant.

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

- (i) that applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that 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 applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that 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/-
(Parth Prateem Sahu)
Judge

Jamal/-