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HIGH COURT OF CHHATTISGARH, BILASPUROrder reserved on 15-12-2020Order delivered on 06-01-2021MCRCA No. 1359 of 2020

- Kamal Kumar Nirala S/o Mohitram Nirala, Aged About 42 Years R/o LIG - 120, Sector-2, D.D.U. Nagar, Raipur (Chhattisgarh).

---- Applicant

Versus

- State Of Chhattisgarh Through - Police Station - Civil Line, District - Raipur (Chhattisgarh).

---- Respondent

For Applicant :- Mr. Kishore Narayan, Advocate
For Respondent /State :- Mr. Ayaz Naved, G.A.
For Objector :- Mr. Rahul Tamaskar, Advocate
Mr. R.K. Mishra, T.I., Civil Lines, Raipur is also present in the Court

Hon'ble Mr. Justice Prashant Kumar MishraCAV Order

1. Heard.
2. The applicant has preferred this application for grant of anticipatory bail, as he apprehends his arrest in connection with Crime No.312/2020, registered at Police Station Civil Line, District Raipur C.G. for offence punishable under Sections 381, 411 of the I.P.C.
3. Complainant - Anshay Sehgal lodged a report against the present applicant on 23-8-2020, alleging that the applicant was working as the Manager in his firm for the last about 5 years and was

deputed to work in the godown to look after stock of sales of tyres. Due to lockdown, on account of outbreak of COVID-19 Pandemic situation, the complainant could not visit the godown for about 3-4 months period. Taking advantage of which, the applicant committed theft of tyres and sold the same to different persons without informing or giving accounts to the complainant. The applicant has committed theft of 285 truck tyres amounting to Rs.49.50 lacs.

4. Shri Kishore Narayan, learned counsel for the applicant would submit that the applicant himself is involved in the business of truck tyres and in connection with the same, he had entered into commercial transaction with the firm owned by the complainant. Merely because there were some business differences, the complaint has been lodged to pressurize the applicant to make payment of the amount which the applicant allegedly owes to the complainant firm. Learned counsel would refer to the documents filed with the bail application which are the ledger account of applicant's transaction with the complainant's firm. He has also drawn attention of the Court to the Income Tax Return (Annexure – A/5) and the agreement between the applicant and the complainant vide Annexure – A/6 and the rent note Annexure – A/9 saying that the applicant has his own office for performing his business.
5. Per contra, Shri Ayaz Naved, learned counsel for the State and Shri Rahul Tamaskar, learned counsel for the objector would vehemently oppose the bail application. They would submit that

the present is a clear case of theft of truck tyres which the applicant was possessed of in course of his employment with the complainant firm. Learned counsel for the State would read out the material available in the case diary.

6. On perusal of the case diary, it appears statement of witnesses have been recorded during investigation showing payment of different amounts to the applicant for purchase of truck tyres by them. Statements of Sanju Sahu & Dhananjay Singh Rajput are to the above effect. Memorandum statement of Bhole Agrawal also indicates that he has purchased tyres from the applicant during the relevant period. The amount of which was not paid to the complainant firm. Similarly, memorandum statement of Kiran Nirala, wife of the present applicant also discloses that the applicant was involved in committing theft of truck tyres belonging to the complainant firm.
7. Having seen the material available in the case diary; amount involved; and the amount of theft, this Court is not inclined to grant anticipatory bail to the applicant.
8. Accordingly, the anticipatory bail application is rejected.

SD/-
(Prashant Kumar Mishra)
Judge

Gowri