

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRCA No. 1043 of 2021**

Anil Kumar Namdev S/o Shri Rajmani Namdev, Aged About 36 Years, R/o 356, Ward No 42, Azad Chowk, Street No. 05, Potiya Road Durg, Tahsil and District - Durg (C.G.).

**---- Applicant****Versus**

State of Chhattisgarh Through Police Station, Devbhog, District - Gariyaband (C.G.).

**---- Non-applicant**

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For Applicant : Mr. Arvind Kumar Dubey, Advocate

For Non-applicant/State : Mr. B.P. Banjare, Dy. Govt. Advocate

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**Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****24.09.2021**

1. The applicant has preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No. 0012 of 2021 registered at Police Station Devbhog, District Gariyaband (C.G.), for offence punishable under Sections 420, 409, 34 of Indian Penal Code and 138 (1) (c) of Electricity Act.
2. Case of the prosecution, in brief, is that, Assistant Engineer of Chhattisgarh State Electricity Power Distribution Company, Mainpur, Sub Division Gariyaband, lodged a written report before the Station House Officer, Police Station Devbhog, District Gariyaband mentioning therein that on inspection of Ms. Tanmay Fuel, situated at village Chhaildongri on 05.01.2021, it was found

that Petrol Pump was running through illegal electricity connection with electricity meter. The Petrol Pump is owned by co-accused Jageshwar Sinha. During the course of inspection, statement of Abhimanyu Sahu, Contractor and Jageshwar Sinha, owner of Petrol Pump (co-accused persons) were recorded. Abhimanyu Sahu Contractor who laid down the electricity line to Ms. Tanmay Fuel and installed transformer with electric meter stated that he worked on oral instruction of applicant. Owner of Petrol Pump has not deposited estimated cost of laying down electric line, installation of transformer and its connection, but in connivance of present applicant running Petrol Pump through illegal connection. The complainant has valued the cost of laying down electric line and transformer of Rs.4,36,475/-. Based on the written report, aforementioned crime is registered against the applicant and two other co-accused persons, namely, Jageshwar Sinha (owner) and Abhimanyu Sahu (contractor).

3. Mr. Arivind Kumar Dubey, learned counsel for the applicant would submit that statements of Nagendra Kumar Soni and Nilesh Kumar Sahu (linemen) cannot be treated to be correct because as per statement of Nagendra Kumar Soni, amount received in his account stated to be transfered to the applicant is not correct. The applicant has obtained bank statement of Nagendra Kumar Soni, wherein it does not show transfer by deposit of Rs.50,000/- on 14.10.2020 as stated by him. He further submits that statement of other co-accused person cannot be taken into consideration as they are also allegedly involved in the commission of crime. It is

pointed out that owner of Petrol Pump already submitted application form for electricity connection, but due to some defect pointed out in it, demand order could not be issued and the applicant in anticipation has laid down the electricity line and also installed electricity meter, hence applicant has not committed any offence as alleged against him. It is contended that other co-accused persons have been enlarged on anticipatory bail, hence, applicant may also be enlarged on anticipatory bail.

4. Per contra, Mr. B.P. Banjare, Deputy Government Advocate representing the State opposing the submissions made by learned counsel for the applicant, would submit that applicant being a Junior Engineer is authorized to issue orders for laying down electricity lines after receiving approval from higher authorities. In this case, application form submitted by owner of Petrol Pump was found to be defective and returned back by superior Officer. No demand order was issued, no amount was deposited by consumer. He further submits that without sanction order and estimation of cost of lines and transformer, applicant has laid down electricity cable, installed transformer and connected electricity line with mainline, hence, applicant has committed offence as alleged against him. It is contended that Nagendra Kumar Soni and Nilesh Kumar Sahu have stated that owner of Petrol Pump has paid amount to applicant in their presence. Nagendra Kumar Soni has further stated that owner of Petrol Pump has deposited the amount in his bank account to be handed over to applicant, which he handed over. On instruction of

applicant shown spot to the workers of contractor for laying electric cables. In statement of operator, it has come that on instruction of applicant he shut down the feeder, as such, there is involvement of the applicant in commission of crime.

5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegation and statements of Nagendra Kumar Soni and Nilesh Kumar Sahu (linemen) and operator of feeder Gend Lal Dhruw, I do not find it to be a fit case to enlarge the applicant on anticipatory bail.
7. Accordingly, anticipatory bail application is dismissed.

Certified copy as per rules.

**Sd/-**  
**(Parth Prateem Sahu)**  
**Judge**