

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 7860 of 2020

Pritam Patel S/o Late Ramchandra Patel, Aged About 37 Years Caste - Aghariya, R/o Village Godmarra, Post - Pirda Police Station - Basna, Tehsil - Pithoura, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh, Through, Station House Officer Police Station - Basna, District Mahasamund Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Respondent

For Applicant	:	Shri Awadh Tripathi, Advocate
For State	:	Shri Aman Kesharwani, Panel Lawyer

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

11/02/2021

Heard.

1. The applicant is arrested in connection with Crime No.182/2015 registered in Police Station -Basna, District- Mahasamund (CG) for alleged commission of offence under Sections 420, 409, 34 IPC.
2. Case of the prosecution, in brief, is that the applicant and other co-accused who are working in different capacity in the Procurement Society have indulged in financial irregularities and misappropriation of huge amount since 2012-13. According to prosecution, the applicant and co-accused had been siphoning the funds of the Society in many ways which included irregularity in procurement of paddy, re-payment to agriculturists and other activity relating to sale and purchase of fertilizers etc.
3. Learned counsel for the applicant would submit that when the FIR was lodged in the year 2015, allegations were not made against the applicant but

against the concerned In-charge Manager and the Computer Operator and during investigation, when statements were recorded by the Police on 4.8.2015, the witnesses Dharam, Pitambar, Punit, Devlal, Markande and ors. made allegation only against other co-accused but not against the present applicant. Learned counsel for the applicant submits that even the present applicant's statement was recorded during that investigation as one of the witness because it is the present applicant who had brought it to the notice of the authority regarding irregularities. He submits that after one year, on 14.7.2016, supplementary statements under Section 161 Cr.P.C. were recorded by the investigation authority and those very persons named above who had earlier given statements involving co-accused, they started involving present applicant levelling allegation that in all the irregularities and misappropriation committed by co-accused Rohit Kumar Patel and Yashwant Nayak, the present applicant was equally involved. Learned counsel for the applicant next submits that the applicant had earlier applied for grant of anticipatory bail which was rejected against which the applicant had filed application before the Supreme Court also, but, thereafter, when bail was not granted, he finally surrendered on 6.10.2020 and applied for grant of regular bail. Learned counsel for the applicant would submit that the applicant is entitled to grant of bail on the ground of parity because co-accused persons have been granted bail by this Court in their respective applications and the applicant is being involved mainly on the ground that since he did not report the matter to the higher authority, he was conniving with the other co-accused.

4. On the other hand, learned counsel for the State opposed the bail application by submitting that huge amount of alleged misappropriation is involved in the present case against the present applicant and co-accused. He would argue that though initially, during investigation, name of the applicant was not involved, but later on, the authority had inquired into the affairs of the Society and reports were also prepared which shows that the applicant at that time was working as President of the Society and it is not probable that the subordinates of the applicant would be indulging in misappropriation and the applicant would not know about the same. Whatever reports were made by the applicant was only at belated stage. He next submits that the applicant remained absconding for long and surrendered only on 6.10.2020. Learned

counsel for the State next submits that the present applicant and the co-accused cannot be said to be identically situated because at the relevant time, the applicant was working as President of the Society, whereas co-accused Rohit who has been granted bail is mainly on the consideration that the trial could not be completed within the period of six months entitling him to grant of bail under Section 437 (6) Cr.P.C. As far as co-accused Yashwant is concerned, he was the Computer Operator and grant of bail to Yashwant would not entitle the applicant to grant of bail on the ground of parity. He submits that in case, the applicant is granted bail, he may abscond and it may adversely affect the progress of trial.

5. I have heard learned counsel for the parties and perused the case diary.
6. From perusal of the case diary, it appears that the allegation of commission of offence of irregularity have been levelled against the present applicant and co-accused Rohit and Yashwant. The applicant at the relevant time, was working as President of the Society. Rohit was In-charge Manager of the Society and Yashwant was Computer Operator. Initially, in the FIR lodged under Crime No.182 of 2015, the allegation were mainly against co-accused. Diary statements are said to be recorded on 4.8.2015. It appears that in the meantime, certain departmental level enquiry were also made and in those departmental inquiries, it was prima facie found that for such large scale irregularity, not only the In-charge Manager and the Computer Operator but the applicant is also involved because at that time, he was working as President of the Society and he did not report the matter to anybody immediately bringing it to the notice of the police or higher authority regarding alleged irregularities in the Society. Therefore, he is also prima facie involved. It appears that the applicant had challenged the said report before the Chhattisgarh State Cooperative Tribunal, Bilaspur which passed order in favour of the applicant on 8.9.2016 setting aside the adverse report. The said order of the Tribunal has been challenged before this Court by M.P. Shrivash, the Enquiry Officer, by filing Writ Petition (C) No.2431 of 2016, in which, an interim order has been passed staying the effect of the order of the Tribunal.
7. It would thus be seen that the applicant is making contention before the various authorities that he is not involved in the alleged irregularities along

with Rohit and Yashwant.

8. Co-accused Rohit who was the concerned In-Charge Manager during the relevant time has been granted bail under Section 437 (6) Cr.P.C. on the ground that the trial has not been concluded within the stipulated period. The other co-accused Yashwant has also been granted bail by this Court and the order passed in his case has also been annexed. The material which is placed in the charge sheet and contained in the case diary, contained allegation of irregularities by Rohit, Yashwant and involvement of the applicant is based mainly on the ground that at the relevant time, he was working as President of the Society and it is not probable that he would not be knowing irregularities committed by his subordinates.
9. The applicant has subsequently surrendered and thereafter applied for grant of regular bail. Considering the totality of the circumstances and in the absence of any material that in case of grant of bail, the applicant is likely to abscond, on the ground of parity as other co-accused have been granted bail, this Court is inclined to grant bail to the applicant. This is so because in view of peculiar nature of allegation against the applicant and co-accused, if the co-accused have been granted benefit of bail, applicant cannot be denied at this stage.
10. The application is accordingly allowed and it is directed that the applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court with following further conditions:-
 - (i) The applicant shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (ii) The 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/-
(Manindra Mohan Shrivastava)
Judge