

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 9443 of 2020

- Virendra Kumar Upadhyay S/o Late Radheshyam Upadhyay, Aged About 42 Years Caste Brahman, R/o. Akharabhata, Ward No. 10, Sakti, Police Station And Tahsil Sakti, District Janjgir Champa Chhattisgarh. **---- Applicant**

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Dabhara, District Janjgir Champa Chhattisgarh. **---- Non-Applicant/State**

For Applicant	:	Shri Shashank Thakur, Advocate
For Non-Applicant/State	:	Shri Dinesh Tiwari, Dy.G.A.

Hon'ble Justice Shri Gautam Chourdiya

Order on Board

04.02.2021

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested on 01.12.2020, in connection with Crime No. 366/2014, at Police Station- Dabhara, District- Janjgir-Champa (C.G.) for the offence punishable under Section 409, 420, 467, 468/34 of IPC.
2. Case of the prosecution in brief is that 11 works were sanctioned under Mahatma Gandhi National Rural Employment Guarantee (MGNREGA) Scheme for Gram Panchayat Devgaon for worth of Rs. 1 crore 4 lakhs out of which Rs. 88 lakhs were shown to be spent in the said work whereas after inquiry it was found work worth Rs. 30 lakh was only done. The allegations against the present applicant is that he being Data Entry Operator in the said Panchayat in association with Sarpanch namely Vimla Bai and

other co-accused persons committed embezzlement of Rs. 48 lakh by making forged muster-roll and bills.

3. Learned counsel for the applicant submits that the applicant is an innocent person, he was working as Data Entry Operator on contractual basis in Janpad Panchayat, Malkharoda, he is nowhere involved in the alleged offence and has been falsely implicated in this case. He submits that the applicant is in jail since 01.12.2020, charge-sheet has already been filed, nothing is required to be seized from the applicant and conclusion of trial is likely to take some time. Lastly he submits that the co-accused persons in this case have already been granted regular bail by the co-ordinate Bench of this Court vide orders dated 11.01.2017 and 25.01.2017 passed in MCRC Nos. 8547 of 2016 and 220 of 2017 respectively and therefore, the present applicant be also released on bail.
4. On the other hand, learned counsel for the Non-Applciant/State opposes prayer for grant of bail and submits that the applicant has no criminal antecedents.
5. Having considered the submission made by learned counsel for the parties, looking to the nature of allegation against the applicant, the nature of work assigned to the present applicant vide Annexure A/2 i.e. Data Entry Operator for making entry of Complaint Branch, Right To Information, Jandarshan, Time Limit, details of official work, the fact that SDO (R) found that no proceedings of recovery can be conducted against *Sarpanch* of *gram panchayat* Devgaon vide Annexure A/5, detention period of the applicant, the fact that the co-accused persons namely Sagar Das, who was Secretary of the *gram panchayat* and other co-accused person who were entrusted with the job of measurement and preparation of muster-roll have already been granted bail by the co-ordinate Bench of this Court, the present

applicant has no criminal antecedents as admitted by both the counsel and conclusion of the trial is likely to take some time, without commenting anything on merits of the case, the application is allowed.

6. It is directed that in the event of the applicant executing a personal bond for a sum of Rs.1,00,000/- with two sureties of Rs. 50,000/- each to the satisfaction of the concerned Trial Court, he shall be released on bail on following conditions:-

(a) he 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 from disclosing such fact to the Court.

(b) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and

(c) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

(d) he shall not involve himself in any offence of similar nature in future or else this order granting bail to the applicant shall automatically stand cancelled without further reference to the Bench.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicant involving himself in similar offence in future.

Sd/-

(Gautam Chourdiya)
Judge