IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 31st OF JANUARY, 2024

MISC. CRIMINAL CASE No. 2573 of 2024

BETWEEN:-

NARENDRA SINGH DHAKAD S/O SHRI KAILASH CHANDRA DHAKAD, AGED ABOUT 36 YEARS, OCCUPATION: PRESIDENT MAHILA BAHUUDESIYA SAHAKARI SANSTHA MARYADIT SEGADA TEHSIL POHARI DISTRICT SHIVPURI (MADHYA PRADESH)

.....APPLICANT

(BY SHRI DHARMENDRA NAYAK - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER THROUGH POLICE STATION BAIRAD DISTRICT SHIVPURI (MADHYA PRADESH)

.....RESPONDENTS

(BY SHRI RAVINDRA SINGH KUSHWAH - PUBLIC PROSECUTOR)

This application coming on for admission hearing this day, the court passed the following:

ORDER

I.A. No. 2111/2024, an application for taking documents on record is taken up, considered and allowed for the reasons mentioned therein.

Documents are taken on record.

This is **first** application filed by the applicant under Section 438 of the Cr.P.C. for grant of anticipatory bail relating to FIR No. 04/2024 registered at Police Station Bairad, District Shivpuri (M.P.) for the offence under Sections 420, 409 of IPC and section 3, 7 of Essential Commodities Act.

As per prosecution story, allegations against the applicant, in short, are

Signature Not Verified
Signed by: SANJAY NAMDEORAO BURGEKAR
Signing time: 01-02-2024 05:16:22 PM

that the applicant who is Manager of Mahila Bahuudesiya Sahakari Sanstha, Saughada situated at Kharee Dawar and the Sales man/co-accused Amar Singh Baghel did not provide ration to the ration card holders and have done misappropriation of food items worth Rs.1,68,454/- which is violation of provisions of M.P. Public Distribution System (Control) Order 2015.

Learned counsel for the applicant/accused argued that applicant is innocent and has been falsely implicated. It is further submitted that vide order dated 19/01/2023, the fair price shop has been attached with applicant's Sanstha and applicant/accused demanded charge and stock from Mahila Bahuudesiya Sahakari Sanstha Maryadhit, Pachipura vide letter dated 22/01/2023 (Annexure A/2), but till date the said Sanstha had not given the charge to the applicant. The applicant did not receive the stock of fortified Rice 3504.0 Kg and Wheat 4552.0 Kg from the aforesaid Sanstha, which is evident from stock list. It is further submitted that applicant also wrote for handing over of the POS machine. The alleged act levelled against the applicant is under the provisions of Essential Commodities Act, therefore, provisions of section 409 of IPC do not attract in this matter. The offence under section 3/7 of Essential Commodities Act is bailable in nature. Further custodial interrogation of the applicant may not be required since all the documents have already been in possession of the authority concerned. It is further submitted that in the light of order dated 07/05/2015 passed in M.Cr.C. No. 2914/2015 (Santosh Sahare vs State of M.P.), applicant is entitled to get the benefit of anticipatory bail. Further argument is that applicant is ready and willing to abide by all the terms and conditions which may be imposed by this Court while granting anticipatory bail. Applicant is permanent resident of District Shivpuri (M.P.), therefore, there is

Signature Not Verified
Signed by: SANJAY NAMDEORAO DURGEKAR
Signing time: 01-02-2024 05:16:22 PM

no possibility of his absconsion or tampering with the prosecution evidence. Hence, prayed to allow the anticipatory bail application of the applicant.

Per contra, learned counsel for the State has vehemently opposed the bail application and prayed for its rejection.

Heard learned counsel for the rival parties and perused the case diary available on record.

In view of the facts and circumstances of the case, but without expressing any opinion on merits of the case, this application is allowed and it is directed that in the *event of arrest*, the applicant shall be released on bail on his executing a personal bond in the sum of **Rs.100,000/-(Rupees One Lakh Only)** with two local solvent sureties in the like amount to the satisfaction of the Arresting Officer/Investigating Authority.

The applicant shall further abide by other conditions enumerated under Section 438 (2) of the Code of Criminal Procedure and shall cooperate in the investigation otherwise this bail order shall automatically stand cancelled.

Certified copy as per rules.

(SUNITA YADAV)
JUDGE

Durgekar

Signature Not Verified
Signed by: SANJAY NAMDEORAO DURGEKAR
Signing time: 01-02-2024 05:16:22 PM