

(2019) 10 CHH CK 0079

Chhattisgarh High Court

Case No: M.Cr.C.(A) No. 788 Of 2019

Alok Shukla

APPELLANT

Vs

State Of Chhattisgarh And Ors

RESPONDENT

Date of Decision: Oct. 16, 2019

Acts Referred:

- Indian Penal Code, 1860 - Section 109, 120B, 409, 420
- Prevention Of Corruption Act, 1988 - Section 13(1)(d), 13(2)

Hon'ble Judges: Arvind Singh Chandel, J

Bench: Single Bench

Advocate: Kishore Bhaduri, Aayush Bhatia, Sabyasachi Bhaduri, Hamida Siddiqui

Final Decision: Allowed

Judgement

Arvind Singh Chandel, J

1. The Applicant is apprehending his arrest in connection with Crime No.9 of 2015 registered at Police Station Economic Offence Wing/ Anti-

Corruption Bureau, Raipur for offence punishable under Sections 109, 120B, 409, 420 of the Indian Penal Code and Section 13(1)(d) read with Section

13(2) of the Prevention of Corruption Act (henceforth 'the PC Act').

2. Facts of the case, in brief, are that from 1.7.2014 to 18.2.2015, the Applicant was posted as the Chairman of the Board of Directors in Nagrik

Apurti Nigam (henceforth 'the NAN'). During the said period, co-accused Anil Tuteja was posted as the Managing Director in the NAN. On

12.2.2015, First Information Report was lodged by the State Economic Offences Wing Investigation Bureau, Raipur against some other persons for

offence punishable under Sections 109, 120B, 409, 420 of the Indian Penal Code and Section 13(1)(d) read with Section 13(2) of the PC Act. Raids

were conducted by the Anti-Corruption Bureau on certain officers and employees of the NAN and on completion of the investigation, a charge-sheet

was filed against 16 accused persons before the Special Judge under the PC Act, Raipur. Thereafter, on 5.12.2018, a supplementary charge-sheet

was filed against the present Applicant as well as other co-accused Anil Tuteja before the said Special Court. Allegations against the present

Applicant are that he committed the alleged offence with the assistance of other co-accused persons. Allegedly, the present Applicant illegally realised

some amount from different rice millers through his Personal Assistant Girish Sharma and secretly kept that money with Dr. Anand Dubey. During

the course of investigation, a sum of Rupees Twenty Lakhs was recovered and seized from Personal Assistant Girish Sharma.

3. Shri Kishore Bhaduri, Learned Counsel appearing for the Applicant submits that the Applicant is innocent and has been falsely implicated in the

case. There is nothing on record on the basis of which any offence could be made out against the Applicant. There is no iota of evidence regarding

entrustment of property with the Applicant and there is also no iota of evidence that the Applicant fraudulently and dishonestly deceived any person.

There is no prima facie evidence available on record on the basis of which it could be said that the Applicant obtained any illegal money for himself for

any pecuniary advantage or valuable thing. It is further submitted that the FIR was lodged in the year 2015 and no interrogation was made from the

Applicant and he was directly charge-sheeted in the year 2018, i.e., after 3 years of lodging of the FIR. It is further submitted that initially in the FIR

name of the Applicant was not included nor was earlier any charge-sheet filed against him. He is an I.A.S. (Indian Administrative Service) Officer

and is posted at Raipur for the last so many years. Despite that, police has not approached him nor is trying to interrogate him. Thus, it is clear that no

custodial interrogation of the Applicant is required. Since charge-sheet has already been filed against the Applicant, it is clear that now the Applicant is

not required for any interrogation. It is further submitted that Dr. Anand Dubey has already been examined before the Trial Court and he has been

declared hostile. It is submitted that other witness Girish Sharma has also not supported the case of the prosecution before the Trial Court. On perusal of Annexure A-11, it is clear that the prosecution itself has admitted the fact that the investigation was of very poor quality and a Special Investigation Team (S.I.T.) has already been constituted for further investigation into the matter. Co-accused Anil Tuteja has already been extended the benefit of anticipatory bail vide order of this Court dated 29.4.2019 passed in M.Cr.C. (A) No.1679 of 2018. The case of the present Applicant is on better footing than the case of Anil Tuteja. Therefore, the present Applicant may also be extended the benefit of anticipatory bail.

4. Learned Counsel appearing for the State opposes the bail application.

5. I have heard Learned Counsel appearing for the parties and perused the material available with due care.

6. Taking into consideration the facts and circumstances of the case, the submissions put-forth on behalf of the parties and considering that charge-sheet has already been filed and it seems that custodial interrogation of the Applicant is not required and co-accused Anil Tuteja has already been granted anticipatory bail by this Court and, therefore, on the same footing, the present Applicant is also extended the benefit of anticipatory bail.

7. Accordingly, the anticipatory bail application is allowed.

8. It is directed that in the event of arrest of the Applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on furnishing a personal bond in the sum of Rupees Three Lakhs with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned Trial Court. He shall also abide by all the following terms and conditions:

- (i) 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,
- (ii) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) He shall appear before the Trial Court on each and every date given to him by the said Court till disposal of the trial.