(2013) 03 CHH CK 0030

In the Chhattisgarh High Court

Case No : M.Cr.C. (A) No. 195 of 2013

Naresh Lal Shrivastava — APPELLANT

Vs

State of C.G. — RESPONDENT

Date of Decision : 22-03-2013

Acts Referred:

Citation : (2013) 4 CGLJ 385

Hon'ble Judges : Manindra Mohan Shrivastava, J

Bench : Single Bench

Advocate : Ashok Verma and Mr. S.C. Verma, for the Appellant; Rakesh Jha, Dy. Government Advocate, for the Respondent

Judgement

Manindra Mohan Shrivastava, J.—Heard. The applicants have filed these applications u/s 438 of the Code of Criminal Procedure, 1973 (in short ''the Code'') for grant of anticipatory bail, apprehending arrest in Crime No. 216/2012 registered at Police Station Lalbag, District Rajnandgaon (C.G.) for the offence punishable under Sections 409, 420, 467, 468 & 471 of IPC.

2. The case of the prosecution is that one Yadavram Dewangan, who was working as Sankul Shikshik Samanvayak, used to submit cheques along with the lists of beneficiary institutions for transfer of funds in the respective institutions under Mid Day Meal Scheme. It is alleged that while submitting those lists, the names of beneficiaries were interpolated with the result that on several occasions, the funds were transferred to those Institutions to which, it was not ordered to be transferred by the Block Education Officer. The allegations against the applicants are that applicants namely Naresh Lal Shrivastava, Bhagwat Singh Baghel, Dariyav Dongre and Pradeep Singh Thakur, were posted as Branch Managers of concerned Bank at different point of time from 2003 to 2012. Applicant-Surendra Kumar Sharma was posted and working as Clerk-cum-Cashier in the said Bank. According to the prosecution, the interpolated list of beneficiary institutions along with cheque used to be submitted by Yadavram Dewangan and the applicants knowing fully well that it was an interpolated list,

used to transfer the fund in the name of those institutions, which were not entitled to receive the funds. In this manner, the applicants are also involved in commission of offence.

3. Learned counsel for the respective applicants argued that the applicants are being falsely implicated as a measure of harassment. Learned counsel further submitted that initially the offence was registered against Yadavram Dewangan only and the matter was thoroughly investigated by the Police. All the applicants also appeared as prosecution witnesses during the course of investigation by the Police and their case diary statements were recorded. After completion of investigation, the charge sheet has already been filed in the Court, in which, all the applicants have been cited as prosecution witnesses. He submits that now the applicants are apprehending their arrest as they have come to know that the police is proceeding to implead them also as accused, since the applicants were working in the Bank in various capacities during the relevant time. Learned counsel for the applicants further argued that there is no specific material collected by the Police during thorough investigation at earlier point of time, which would even remotely indicate involvement of the applicants in the commission of offence by Yadav Ram Dewangan. It is submitted that the applicants had earlier been examined by the I.O. of the case and therefore, the applicants need not be arrested at this stage as they will fully cooperate in the investigation and also in any further investigation.

4. On the other hand, learned counsel for the State argued that though initially when the investigation was made and the charge sheet was filed, the applicants were made prosecution witnesses after recording their case diary statements u/s 161 Cr.P.C. After submission of charge sheet, upon further enquiry, it has been revealed that the applicants did not point out any illegality during their respective tenure as Branch Manager and Clerk-cum-Cashier and allowed the interpolated list to be used. Prima facie now they are also involved in the alleged commission of offence.

5. The applicants namely Naresh Lal Shrivastava, Bhagwat Singh Baghel, Dariyav Dongre and Pradeep Singh Thakur were posted as Branch Manager at different point of time during different periods. Accused namely Surendra Kumar Sharma was posted as Clerk-cum-Cashier of the said Bank. What is revealed from the case diary and the challan, which has been filed in it, show that Yadav Ram Dewangan used to bring the cheque along with list of beneficiary institutions and on the basis of this list, the applicants-the Branch Managers in their respective capacity used to pass necessary orders for transfer of fund in favour of the institutions whose names are indicated in the list submitted before them by Yadav Ram Dewangan. Prima facie the only thing which seems to involve the applicants are that they did not point out or raise any objection with regard to certain corrections appearing in some of those lists which were submitted before them during their tenure of service as Branch Managers. Except this, the prosecution could not bring out any other material though earlier the matter was

thoroughly investigated by the Police and all the applicants were cited as prosecution witnesses.

6. Under these circumstances and in the opinion of this Court, the applicants are entitled to protection of anticipatory bail.

Accordingly, all the applications are allowed. It is directed that in the event of arrest of these applicants in connection with the aforesaid offence, they shall be released on bail by the arresting officer on each of them furnishing a personal bond in sum of Rs. 25,000/- with one local surety each for the like amount to the satisfaction of the arresting officer with following further conditions that:

(i) the applicants shall make themselves available for interrogation by the police officer as and when required;

(ii) the applicants 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 facts to the Court or to any police officer.