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IN THE HIGH COURT OF MADHYA PRADESH
AT JABALPUR
MCRC No. 12644 of 2022
(BANTU ROHRA Vs THE STATE OF MADHYA PRADESH)

Dated : 19-04-2022

Mr. Manish Datt, Senior Advocate with Mr. Rohit Sharma, Advocate for the applicant.

Mr. Aditya Narayan Gupta, Government Advocate for the respondent/State.

In compliance of orders passed by this Court, Mr. Vijay Kumar Vishwakarma, Insepector, Mr. Naveen Namdeo, Sub Inspector and Mr. Ramkishore Baiga, Junior Assistant, are present.

Heard.

This is the first application filed under Section 438 of the Code of Criminal Procedure, for grant of anticipatory bail.

The applicant is apprehending his arrest in Crime No.62/2022 registered at Police Station Madhavnagar, District Katni, for the offence punishable under Sections 407, 409 and 420 of the Indian Penal Code.

Learned Senior Advocate submits that the applicant is innocent and has falsely been implicated in the alleged offence. He submits that the applicant has not played any role in the matter whereas the said crime has actually been committed by the officers of the State. He further submits that the officers of the State have neither purchased the paddy from the farmers nor handed over the same to the applicant who is a miller and running his rice mill. He submits that as per the agreement and contract between the applicant with the State Authorities and also with the Civil Supply Corporation, if any paddy is purchased then that would be delivered to the miller, who after its milling, convert the same into rice and transport it to the Civil Supply Corporation, but according to him, in the present case, since no delivery has been made to the applicant, therefore, no question for showing the stock of delivered paddy to the Team inspected the rice mill of the applicant arises. He also submits that as per the record available with the Manager of Uparjan Kendra (Production Center) where the purchase of paddy has been made, it is fraudulently shown that the paddy has been delivered to the applicant who is the proprietor of a rice mill, but the situation is otherwise. He submits that if

any document with regard to delivery of the paddy is collected by the prosecution to make the applicant as an accused, the same is forged and cannot be relied upon. He submits that the applicant has already deposited an amount of Rs.2.5 crore towards advance or security with the respondent/Authority and if at all any loss in lieu of paddy delivered to the applicant is caused to the State, then the said amount can be adjusted out of the amount deposited by the applicant towards the security amount. On these submissions, he prays that the applicant may be granted the benefit of anticipatory bail.

On the other hand, learned Government Advocate has opposed the prayer of bail and submitted that looking to the nature of offence the applicant is not entitled to get any protection of anticipatory bail.

In the present case, the Investigating Team and one of the officers of Civil Supply Corporation have been called along with the complete record of case to assist the Court and make it understand as to what fraud has actually been committed, but during the course of arguments, it is found that the Investigating Officers are not able to demonstrate as to what fraud has actually been committed by the accused persons in the alleged crime. Not only this, it has also been observed by this Court that the Investigating Officer has not made investigation in the right direction or not inclined to reach into the root of the matter so as to find the actual culprits. Although, they have shown some documents i.e. delivery note whereby out of agreed quantity of paddy, some part of paddy was delivered to the applicant and also a document i.e. delivery note which was signed by the applicant himself. However, as per the documents available on record, it reveals that at the time of inspection, the paddy was neither found in the premises of the mill nor in the possession of the applicant. As per the prevailing system of Uparjan Kendra (Production Center) of the Government, if paddy is purchased on Government rate from the farmers, the same would be stored in the earmarked place, but if the miller has space to keep the paddy with him, then the same would be delivered to the miller issuing delivery note and against the said quantity of paddy, the miller has to deposit a lump-sum amount with the Government and after milling the total received paddy, the miller under agreed terms will deliver 67% of rice and for that he would charge milling price from the Civil Supply Corporation and thereafter,

that rice would be stored to the warehouse of the Civil Supply Corporation. It is also pertinent to mention here that if a miller has space to keep the paddy with him, then transportation charge would be paid to him by the State. It is also an admitted fact that when paddy is delivered to the miller, he is also paid the amount of sukhat (loss in weight after being dried).

Here in this case, the applicant being a miller has space to keep the paddy with him, therefore, as per the delivery note, the paddy was handed over to him and after milling the same, 67% of rice from delivered paddy has to be stocked in the Civil Supply Corporation. The fraud actually committed by the officers of the State with the help of applicant in the manner that paddy was in fact not purchased at the Uparjan Kendra (Production Center), but shown to have been purchased on paper only for the reason that the said paddy was purchased by the officers of the State on a higher rate than that of prevailing rate in the market and on the delivery note, it is shown that paddy has been handed over to the miller, but in fact, no physical transaction took place and when this fact came to the knowledge of the Authority, the rice mill of the applicant was inspected where quantity of delivered paddy was not found and as such, the applicant, being the proprietor of the mill was also found involved in the said crime because on the one hand, he had taken the money towards transportation charge from the Civil Supply Corporation and on the other, he might be getting the share of difference of amount of paddy purchased in market rate by the State officers and thereafter, the miller purchased the rice which was brought from the neighboring State of UP on a lower price and that rice was deposited in the warehouse of the Civil Supply Corporation. The miller also took charge of milling from the Civil Supply Corporation, but in fact no physical transaction took place whereas the same has been shown in the paper and as per the Investigation Team, till now the involvement of Government officers with the miller is still undetected. It is also clarified by the Investigating Officer and also by the learned Government Advocate that there is no requirement to deposit Rs.2.5 crores towards security amount and as such, no such amount has been deposited by the applicant with the respondent/State.

So far as the stand taken by learned Senior Advocate that the delivery note

is fabricated and miller has not signed the same is concerned, the investigation is still going on and *prima facie*, it appears that the applicant is involved in huge scam handing in gloves with the Government officers whereby public money has been defrauded by the culprits, therefore, at this stage, I am not inclined to give protection of anticipatory bail to the applicant.

Accordingly, this application is **rejected**.

In the existing facts and circumstances discussed hereinabove, I am of the view that large interest of public money is involved in the case, therefore, the Director General of Police, Bhopal, is directed to take note of the fact and handover the investigation to some special agency or any responsible officer so as to investigate the matter to find out the actual culprits who played fraud with the Government.

Let a copy of this order be sent to the Director General of Police, Bhopal for its onward transmission and necessary compliance.

(SANJAY DWIVEDI)
JUDGE

