2025:CGHC:8831

**NAFR**

**HIGH COURT OF CHHATTISGARH AT BILASPUR**

**MCRC No. 7582 of 2024**

**Reserved on : 29.01.2025**

**Delivered on : 20.02.2025**

Mr. Laxmikant Tiwari S/o Late Mr. Vrindavan Prasad Tiwari Aged About 58 Years R/o Ward No. 01, Shankar Nagar, Mahasamund, Chhattisgarh.

**... Applicant**

**versus**

Anti-Corruption Bureau/economic Offence Wing, Raipur, District Raipur (C.G.), District : Raipur, Chhattisgarh

**--- Respondent**

---

| | | |
|---|---|---|
| For Applicant | : | Mr. Gagan Tiwari, Advocate. |
| For Respondent | : | Dr. Sourbh Kumar Pande, Dy. Advocate General. |

---

**Hon'ble Shri Justice Narendra Kumar Vyas**

**CAV ORDER**

1. This is first bail application filed under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 for grant of regular bail to the applicant who has been **arrested** on **11.06.2024** in connection with Crime No. 03/2024 registered at Police Station- Anti Corruption Bureau/ Economic Offence Wing Chhattisgarh, Raipur, District- Raipur (C.G.) for the offence punishable under Sections 420, 120-B, 384 of IPC and Sections 7, 7-A, 12 of the Prevention of Corruption Act, 1988.

2. The case of the prosecution, in brief, is that on 11.01.2024, one Mr. Sandeep Ahuja, Deputy Director, Directorate of Enforcement, Raipur through Mr. Farhan Qureshi, Deputy Superintendent of Police lodged a

complaint before the Director General of Police Anti Corruption Bureau & Economic Offences Wing, Chhattisgarh pertaining to predicate offence discovered during money laundering in investigation File No. ECIR/RPZO/09/2022 was done under Section 66(2) of the Prevention of Money Laundering Act, 2002 (for short “the PMLA”). Thereafter, an offence bearing FIR No. 03/2024 has been registered on 17.01.2024 at Police Station ACB/EOW Raipur (C.G.) against 35 accused persons namely Smt. Saumya Chaurasiya, Sameer Bisnoi, Smt. Ranu Sahu, Sandeep Kumar Nayak, Shivshankar Nag, Suryakant Tiwari, Manish Upadhyay, Roshan Kumar Singh, Nikhil Chandrakar, Rahul Singh, Parekh Kurre, Moinuddin Qureshi, Virendra Jaiswal, Rajnikant Tiwari, Hemant Jaiswal, Joginder Singh, Nawneet Tiwari, Deepesh Taunk, Devendra Dadsena, Rahul Mishra, Ramgopal Agrawal, Devendra Singh Yadav, Shishupal Sori, Rampratap Singh, Vinod Tiwari, Amarjeet Bhagat, Chandradeo Prasad Rai, Brashpat Singh, Idrish Gandhi, Gulab Kamro, Shri U.D. Minj, Sunil Kumar Agrawal, Jai (friend of the applicant), Chandraparakash Jaiswal, Laxmikant Tiwari & others.

3. Further case of the prosecution is that a syndicate comprised of private individuals and other State Government functionaries like Smt. Saumya Chaurasia, Director, Geology & Mining Department and with the backing of some political executives, they managed to make deliberate policy changes. As part of the well-planned conspiracy, the applicant with the active support of the politicians & some of the senior State Government functionaries, managed to influence the then Director of Geology & Mining, and got issued a Government Order dated 15.07.2020 which became the fountain head of this extortion system by converting the online system of issuance of Transport

Permits into a manual system. They started a network of extortion to collect Rs. 25 per on every ton of coal transported in the State of Chhattisgarh. The investigation conducted by the Enforcement Directorate revealed that other senior bureaucrats viz., Smt. Saumya Chaurasia and Smt. Ranu Sahu, IAS were also involved in this conspiracy and were providing assistance to the applicant in running the extortion racket. Smt. Soumya Chourasiya while working as Deputy Secretary in the office of Chief Minister, had assisted the applicant and his associates in collecting the extortion money by posting pliable officers of mining department in the coal mining areas. Smt. Ranu Sahu IAS, who worked as District Collector in coal rich Districts viz., Korba & Raigarh, had close association with the applicant and helped his associates in collecting extortion money from the coal transporters and other businessmen.

4. It is also case of the prosecution that by this system of extortion, a huge amount of cash started accumulating with the syndicate and with this money, the applicant has purchased benami assets and a huge amount of money was transferred to the applicant, spent on political funding and transferred as per the instructions of higher powers. The Enforcement Directorate investigation further established that Smt. Ranu Sahu had aided and abetted the applicant in collection of illegal levy amounts from the coal transporters. Smt. Ranu Sahu was in touch through WhatsApp with Roshan Singh, associate of the applicant. The WhatsApp chats happened between Smt. Ranu Sahu and Roshan Singh, close associate of the applicant, revealed that Roshan Singh was in regular touch with Ranu Sahu and she agreed to do work as asked by Roshan Singh. The investigation carried out by the

Enforcement Directorate further revealed that the government servants like Smt. Saumya Chaurasia, Sameer Vishnoi IAS, Smt. Ranu Sahu, State Mining Officers etc. had received kickbacks from the applicant and acquired benami properties disproportionate to their source of income. It is also case of the prosecution that the applicant has purchased property in the name of his family members and other relatives from receipt of extorted money of coal. Therefore, the Enforcement Directorate requested the Anti Corruption Bureau by filing complaint to identify all the assets acquired by the various government servants who are accused of participation in this extortion syndicate in various Districts. It is also case of the Enforcement Directorate that various mining officers are involved in this extortion. As such, it was requested by the Enforcement Directorate to register an FIR and investigate the matter. In pursuance of the complaint, the FIR was registered. It is also case of the ACB/EOW that Rs. 36 crores illegal extorted money has been collected which has been utilized for purchase of property in the name of applicant and other accused Saumya Chaurasia and Ranu Sahu through their relatives or friends. Thus, on the basis of the complaint, FIR has been registered against the applicant for commission of offence under Sections 7, 7A & 12 of the Prevention of Corruption Act, 1988 as amended in 2018 (for short "the PC Act") read with Sections 420 & 120-B of IPC.

5. From the case diary and the material so collected by the ACB/EOW, the **role** of present applicant is that the applicant is uncle of Suryakant Tiwari and he used to keep the money received from illegal coal levy by Suryakant Tiwari and syndicate at his residence as per the instructions of Suryakant Tiwari and also used to deliver the share of

illegal levy to bureaucrats and political persons on instructions of Suryakant Tiwari. Suryakant Tiwari has invested crores of rupees in illegal immovable properties in applicant's name and his family members from the amount collected by illegal coal levy. After the raid conducted by the Income Tax Department, the immovable properties purchased by the applicant in his own name as well as names of his family members were sold. In the search operation conducted by the Income Tax Department at the residence of Laxmikant Tiwari on 30.06.2022, approximately Rs. 6,44,38,000/- in cash and gold jewellery worth Rs. 3,24,61,655/-were seized. Similarly, Rs. 52,35,000/- in cash was also recovered by the Income Tax Department from locker No. 64 of Laxmikant Tiwari and his wife Mrs. Sunita Tiwari located in Punjab National Bank, Mahasamund. The applicant accepted that the said amount and jewellery belonged to Suryakant Tiwari, thus, he has earned illegal benefits by participating in the criminal conspiracy of Suryakant Tiwari and helping the illegal coal levy collection syndicate. The applicant was involved in handling the money of coal extortion and Suryakant Tiwari has purchased a lot of immovable properties in applicant's name and his son Utkarsh Tiwari and his wife Sunita Tiwari. A large amount of cash has been paid in purchase of these lands. The applicant is a partner in firm M/s Jai Maa Bhadrakai Developers and his son Utkarsh Tiwari is also a partner in Maharaj Mordhwaj Mega Projects. Rs 1.5 crore related to coal levy which was seized from Badal Singh Makkar was given by Laxmikant Tiwari to Badal Singh Makkar to keep safe. In view of the above, it is clear that the present applicant is involved in the aforesaid crime. The investigation in the matter is going on as in the present case huge amount of public money is involved and money laundering had also taken place from the illegal levy on coal transportation by the officials of the State Government in connivance and in conspiracy with the other accused persons.

6. **Mr. Gagan Tiwari**, learned counsel for the applicant would submit that the applicant is innocent and has been falsely implicated in the crime in question. He would further submit that the applicant is aged about 62 years and he has been diagnosed with diabetes and with Branch Retinal Vein Occlusion along with Cystoid Macular Edema in his right eye and Moderate Non-Proliferative Diabetic Retinopathy in his left eye, which in turn caused loss of vision, during a medical examination conducted by the Raipur Central Jail. Because of the said disease there is swelling in center of the retina which causes loss of vision. As a result of such ailments, the applicant is in constant need of treatment, medical care and attention. He would further submit that as per provision of law an accused who is sick and infirm may be granted bail. He would further submit that the registration of present case is an abuse of process of law, the motive of the non-applicant is only to leave the applicant behind the bar for indefinite period. He would further submit that applicant was lodged in the Central Jail Raipur in connection of Crime No. ECIR/RP20/09/2022 dated 29.09.2022 under Sections 3 & 4 of the PMLA Act, 2002 in the same allegation as alleged in the present crime number also nothing new fact arose in the of present case. He would further submit that the applicant has been arrested in the Crime No. ECIR/RPZO/09/2022 on dated 13.10.2022. The applicant and Shiv Shankar Naag got the bail from Hon'ble the Supreme Court on 04.10.2024. He would further submit that the applicant at the time of registration of present Crime No. 3/2024 dated

17.01.2024 by the Anti-Corruption Bureau, was already behind the bar and on 11.06.2024, the applicant was arrested by the non-applicant in the aforesaid offence during judicial custody of Crime No. ECIR/RPZO/09/2022 at Central Jail Raipur (CG). Since then he is behind the bar. He would further submit that no ingredient of the alleged offence has been made out against the applicant in the present case. No act or conduct of the applicant proves commission of the offence alleged or suggests any kind of involvement in the case. He would further submit that the recovery had already been affected by Enforcement Directorate in their registered case, therefore, in the present case, no recovery is required from the present applicant. Moreover, the charge sheet has already been filed by the non-applicant against the applicant and other accused persons, therefore, the custodial interrogation is no more required for the purpose of trial of the case only. He would further submit that other co-accused persons have already granted bail by Hon'ble the Supreme Court, therefore, the applicant seeks the bail on the ground of parity as one cannot be punished for twice for the same offence. He would further submit that the applicant is ready and willing to furnish adequate surety and shall abide by all the directions and conditions which may be imposed by this Court and would pray for releasing the applicant on bail.

7. To substantiate his submission, learned counsel for the applicant would refer to the judgment rendered by Hon'ble the Supreme Court in case of **Manish Sisodia Vs. Directorate of Enforcement [2024 SCC OnLine SC 1920], Prem Prakash vs. ED [SLP (Crl.) No 5416 of 2024 decided on 28.08.2024], Satendar Kumar Antil Vs. Central Buruea of Investigation [(2022) 10 SCC 51], Surinder Singh alias Shingara**

**Singh Vs. State of Punjab [(2005) 7 SCC 387], Kashmira Singh Vs. State of Punjab [(1977) 4 SCC 291], Javed Gulam Nabi Shaikh Vs. State of Maharashtra [2024 SCC OnLine 1693], CBI Vs. V.C. Shukla [1998 (3) SCC 4].**

8. On the other hand, Dr. Saurabh Kumar Pande, Deputy Advocate General for the ACB/EOW opposing the submissions made by learned counsel for the applicant and referring to the FIR and the case diary would submit that the applicant is uncle of Suryakant Tiwari and he used to keep the money received from illegal coal levy by Suryakant Tiwari and syndicate at his residence as per the instructions of Suryakant Tiwari and also used to deliver the share of illegal levy to bureaucrats and political persons on instructions of Suryakant Tiwari. Suryakant Tiwari has invested crores of rupees in illegal immovable properties in applicant's name and his family members from the amount collected by illegal coal levy. After the raid conducted by the Income Tax Department, the immovable properties purchased by the applicant in his own name as well as his family members name were sold. In the raid conducted by the Income Tax Department at applicant's residence on 30.06.2022, approximately Rs. 6,44,38,000/- in cash and gold jewellery worth Rs. 3,24,61,655/- were seized. Similarly, Rs. 52,35,000/- in cash was also recovered by the Income Tax Department from applicant's and his wife locker. He would further submit that the applicant is involved in the economical offence which is not only heinous offence but also against the economy of the nation. The custodial interrogation of the applicant is required as the applicant has not disclosed the source of income from where these properties which have been detailed in the final report and if the accused

remained the custody, the sources of purchase of property can be traced out. He would further submit that the learned Special Judge (Prevention of Corruption Act), Raipur vide order dated 10.09.2024 while dismissing the bail application filed by the applicant has observed that there is involvement of the applicant in the crime in question, which has not been rebutted by the applicant while making this submission before this Court and would pray for rejection of bail petition.

9. I have heard learned counsel for the applicants and the respondents as well as considered the case diary.

10. <u>It is pertinent to mention here that the applicant has nowhere stated in the bail petition regarding source of amount i.e. Rs. 6,44,38,000/- cash seized by the Income Tax, gold jewellery worth Rs. 3,24,61,655/- as also Rs. 52,35,000/- which was recovered from applicant's and his wife locker which clearly shows that the ACB/EOW has collected certain material against the applicant</u>. The prosecution has collected the material against the applicant that he has purchased properties in the name of his family members and relatives but not disclosed the source from where it has been purchased. Thus, from perusal of FIR and the material available in the case diary, involvement of the applicant in commission of offence under Sections 7, 7A & 12 of the PC Act, which is economic offence, is *prima facie* reflected. Hon'ble the Supreme Court while considering the gravity of economic offence in case of **P. Chidambaram Vs. Directorate of Enforcement, [(2019) 9 SCC 24]** has held at paragraph 78 to 81 as under:-

> "78. Observing that economic offence is committed with deliberate design with an eye on personal profit regardless to the consequence to the community, in State of Gujarat v. Mohanlal

Jitamalji Porwal and others (1987) 2 SCC 364, it was held as under:-

"5. ….The entire community is aggrieved if the economic offenders who ruin the economy of the State are not brought to book. A murder may be committed in the heat of moment upon passions being aroused. An economic offence is committed with cool calculation and deliberate design with an eye on personal profit regardless of the consequence to the community. A disregard for the interest of the community can be manifested only at the cost of forfeiting the trust and faith of the community in the system to administer justice in an even-handed manner without fear of criticism from the quarters which view white collar crimes with a permissive eye unmindful of the damage done to the national economy and national interest….."

79. Observing that economic offences constitute a class apart and need to be visited with different approach in the matter of bail, in Y.S. Jagan Mohan Reddy v. CBI (2013) 7 SCC 439, the Supreme Court held as under:-

"34. Economic offences constitute a class apart and need to be visited with a different approach in the matter of bail. The economic offences having deep-rooted conspiracies and involving huge loss of public funds need to be viewed seriously and considered as grave offences affecting the economy of the country as a whole and thereby posing serious threat to the financial health of the country.

35. While granting bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public/State and other similar considerations." [underlining added]

80. Referring to Dukhishyam Benupani, Assistant Director, Enforcement Directorate (FERA) v. Arun Kumar Bajoria (1998) 1 SCC 52, in Enforcement Officer, Ted, Bombay v. Bher Chand Tikaji Bora and others (1999) 5 SCC 720, while hearing an appeal by the Enforcement Directorate against the order of the Single Judge of the Bombay High Court granting anticipatory bail to the respondent thereon, the Supreme Court set aside the order of the Single Judge granting anticipatory bail.

81. Grant of anticipatory bail at the stage of investigation may frustrate the investigating agency in interrogating the accused and in collecting the useful information and also the materials which might have been concealed. Success in such interrogation would elude if the accused knows that he is protected by the order of the court. Grant of anticipatory bail, particularly in economic offences would definitely hamper the effective investigation. Having regard to the materials said to have been collected by the respondent-Enforcement Directorate and

considering the stage of the investigation, we are of the view that it is not a fit case to grant anticipatory bail."

11. Again Hon'ble the Supreme Court in case of **Ramesh Bhavan Rathod Vs. Vishanbhai Hirabhai Makwana (Koli) & another [(2021) 6 SCC 230]** has held in paragraph 23 as under :-

> 24. The principles governing the grant of bail were reiterated by a two judge Bench in Prasanta Kumar Sarkar v. Ashis Chatterjee (2010) 14 SCC 496:
>
> "9. … It is trite that this Court does not, normally, interfere with an order passed by the High Court granting or rejecting bail to the accused. However, it is equally incumbent upon the High Court to exercise its discretion judiciously, cautiously and strictly in compliance with the basic principles laid down in a plethora of decisions of this Court on the point. It is well settled that, among other circumstances, the factors to be borne in mind while considering an application for bail are:
>
> (i) whether there is any prima facie or reasonable ground to believe that the accused had committed the offence;
>
> (ii) nature and gravity of the accusation;
>
> (iii) severity of the punishment in the event of conviction;
>
> (iv) danger of the accused absconding or fleeing, if released on bail;
>
> (v) character, behaviour, means, position and standing of the accused;
>
> (vi) likelihood of the offence being repeated;
>
> (vii) reasonable apprehension of the witnesses being influenced; and
>
> (viii) danger, of course, of justice being thwarted by grant of bail.
>
> "10. It is manifest that if the High Court does not advert to these relevant considerations and mechanically grants bail, the said order would suffer from the vice of non-application of mind, rendering it to be illegal..."
>
> 47. The considerations which must weigh with the Court in granting bail have been formulated in the decisions of this Court in Ram Govind Upadhyay v. Sudarshan Singh13 and Prasanta Kumar Sarkar v. Ashis Chatterjee14(noted earlier). These decisions as well as the decision in Sanjay Chandra (supra) were adverted to in a recent decision of a two judge Bench of this Court dated 19 March 2021 in The State of Kerala v. Mahesh where the Court observed:
>
> "22…All the relevant factors have to be weighed by the Court considering an application for bail, including the gravity of the

offence, the evidence and material which prima facie show the involvement of applicant for bail in the offence alleged, the extent of involvement of the applicant for bail, in the offence alleged, possibility of the applicant accused absconding or otherwise defeating or delaying the course of justice, reasonable apprehension of witnesses being threatened or influenced or of evidence being tempered with, and danger to the safety of the victim (if alive), the complainant, their relatives, friends or other witnesses….” Similarly, the Court held that the grant of bail by the High Court can be set aside, consistent with the precedents we have discussed above, when such grant is based on non-application of mind or is innocent of the relevant factors for such grant.

12. Considering the FIR and other material placed on record, it *prima facie* shows involvement of the applicant in crime in question. As such, I am of the view that it is not a fit case where the applicant should be granted regular bail.

13. Accordingly, the instant bail application filed under Section 483 of the Bhartiya Nagrik Suraksha Sanhita, 2023 is liable to be and is hereby rejected.

14. The observation made by this Court is not bearing any effect on the trial of the case. The learned trial court will decide the criminal trial in accordance with evidence, material placed on record, without being influenced by any of the observations made by this Court while deciding present bail application.

**Sd/-**
**(Narendra Kumar Vyas)**
**Judge**

Arun