



2024:CGHC:50471

NAFR

## HIGH COURT OF CHHATTISGARH AT BILASPUR

### MCRC No. 8321 of 2024

Birendra Nath Pandey S/o Lt. Vidyadhar Pandey Aged About 56 Years  
Occupation Patwari, H. No. 31 Gram Bhattikala, Ambikapur, District-  
Saruguja Chhattisgarh.

... Applicant

**versus**

State Of Chhattisgarh Through- E.O. W. / A.C. B. Raipur, District- District-  
Raipur, Chhattisgarh.

... Non-Applicant

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For Applicant(s) : Mr. Awath Tripathi, Advocate.

For Non-Applicant(s) : Mr. Sangharsh Pandey, Government Advocate.

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**Hon'ble Mr. Ramesh Sinha, Chief Justice**  
**Order on Board**

**20/12/2024**

1. This is the first bail application filed under Section 483 of the Bharatiya Nagarik Suraksha Sanhita, 2023 (for short 'BNSS') for grant of regular bail to the applicant who has been arrested in connection with Crime No. 42/2024 registered at Police Station E.O.W./ Anti Corruption Bureau, Raipur, District-Raipur (C.G.) for the offence punishable under Section 7 of Prevention of Corruption Act, 1988.
2. Case of the prosecution, in brief, is that one Domanram Rajwade

has lodged a written complaint against the applicant with the allegation that that the applicant is working as a patwari that for the purpose of fauti namantran, the applicant has demanded the sum of rupees five thousand 5,000/-, and on the basis of the aforesaid complaint, anti curruption burea has prepared the all the necessary formalities and thereafter on 27.06.2024 again according to the direction of the A.C.B. the complainant met with the applicant and made a request to kindly take some less amount rather than 5,000/- but the applicant did not agreed then on 29.09.2024, the complainant at about 12 P.M. again presented before the A.C.B Ambikapur branch, and according to their direction, the complainant in presence of the two panch-witnesses and at about 14.55 o'clock when the complainant handed over the amount of rupees five thousand, the trap party arrested the applicant red-handed and seized the amount of rupees five thousand with the applicant and thereafter due investigation filed the charge-sheet under Section 7 of Prevention of Corruption Act.

3. Learned counsel for the applicant submits that the applicant has never demanded the aforesaid amount from the complainant, in fact, he has already done the fauti namantran (mutation) prior to the so-called trap set up for the applicant. So, it cannot be said that the applicant has demanded the aforesaid amount of rupees five thousand for the purpose of fauti namantran because, prior to the aforesaid arrangement of trap, the applicant has already ordered for the fauti namantran and the name of the complainant and other legal heirs where duly recorded in the name of revenue records. He

further submits that the applicant has been implicated in the commission of the aforesaid offence due to village rivalry, though directly the applicant is not at all knows the complainant and he has been implicated in a planned manner for the very purpose to somehow terminate the applicant from his job, and accordingly the rival group has succeeded in their Aim, by implicating in such a manner. The applicant is in jail since 20.09.2024, the applicant has one criminal antecedent, in which he is on bail and in the present case, charge-sheet has been filed before the competent Court and the trial is likely to take some time for its conclusion. Therefore, he prays for grant of bail to the applicant.

4. On the other hand, learned State Counsel appearing for the respondent/State opposes the bail application and submits that the charge-sheet has been filed in the present case. He further submits that applicant is involved in a case of taking bribe from the complainant, which was a trap laid down by the ACB, therefore, the applicant is not entitled for grant of bail.
5. I have heard learned counsel appearing for the parties and perused the case diary.
6. Taking into consideration the facts and circumstances of the case, nature and gravity of offence, period of detention of the applicant since 20.09.2024, the fact that for the purpose of fauti namantran the applicant had demanded a bribe of Rs. 5,000/- from the complainant to which the complainant immediately paid a sum of Rs.5,000/- by cash to the applicant and was a trap laid down by the ACB, also considering the fact that the applicant has already

suspended from his service, further the applicant has one criminal antecedent, in which he is on bail and in the present case, charge-sheet has been filed before the competent Court, this Court is of the view that the applicant is entitled to be released on bail in this case.

7. Let the Applicant-**Birendra Nath Pandey**, involved in Crime No. 42/2024 registered at Police Station E.O.W./ Anti Corruption Bureau, Raipur, District-Raipur (C.G.) for the offence punishable under Section 7 of Prevention of Corruption Act, be released on bail on his furnishing a **personal bond** with **two sureties** in the like sum to the satisfaction of the Court concerned with the following conditions:-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 269 of Bharatiya Nyaya Sanhita.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence, proclamation under Section 84 of BNSS. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 209 of the Bharatiya Nyaya Sanhita.

(iv) The applicant shall remain present, in person,

before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 351 of BNSS. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

8. Office is directed to send a copy of this order to the trial Court for necessary information and compliance forthwith.

**Sd/-**  
(Ramesh Sinha)  
**CHIEF JUSTICE**

Kunal