

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.3671 of 2015

Kshir Sagar Patel, S/o Laxminarayan Patel, aged about 38 years,
Occupation Junior Technical Assistant, Civil Supplies Corporation, Raigarh,
R/o House No.19, Kalindi Kunj, Meethuguda, Raigarh (CG)

---- Applicant

Versus

State of Chhattisgarh, Through Anti Corruption Bureau, Raipur, District
Raipur (CG)

---- Non-applicant

For Applicant: Mrs. Fouzia Mirza, Advocate.

For Non-applicant: Mr. A.S. Kachhawaha, Additional Advocate General
with Mr. Anupam Dubey, Deputy Govt. Advocate.

ANDMisc. Criminal Case No.3928 of 2015

Ashok Soni, S/o Ram Chandra Soni, aged about 53 years, Permanent,
working as a Assistant Manager, R/o MIG-II/428, Sector-2, Deendayal
Upadhyay Nagar, Raipur, Police Station D.D. Nagar, District Raipur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through P.S. State Economic Offence Investigation
Bureau, District Raipur (C.G.)

---- Non-applicant

For Applicant: Mr. Kishore Bhaduri and Mr. Anmol Sharma,
Advocates.

For Non-applicant: Mr. A.S. Kachhawaha, Additional Advocate General
with Mr. Anupam Dubey, Deputy Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

CAV Order

24/08/2015

1. Since both the applications are arising out of the same crime number,
they are being disposed of by this common order.

2. The accused/applicants have moved these bail applications under Section 439 of the Code of Criminal Procedure, 1973 for releasing them on regular bail during trial in connection with Crime No.9/2015 (Special Case No.794/2015 pending in the Court of Special Judge under the Prevention of Corruption Act, Raipur), registered at Police Station: Anti Corruption Bureau, Raipur for the offence punishable under Sections 109, 120B, 409, 420 of the IPC; 11, 13 (1) (d) and 13 (2) of the Prevention of Corruption Act, 1988.

M.Cr.C.No.3928/2015

3. Case of the prosecution, in brief, is that applicant Ashok Soni while posted as In-charge District Manager in Chhattisgarh State Civil Supplies Corporation, Kanker with effect from 25-7-2013 accepted sub-standard rice and obtained illegal gratification from rice millers and sent a part of it i.e. Rs.4/- per quintal to the Head Quarter at Raipur to other co-accused and thereby committed the offence.

M.Cr.C.No.3671/2015

4. Case of the prosecution, in brief, is that applicant Kshir Sagar Patel while working as Junior Technical Assistant in the Office of Chhattisgarh State Civil Supplies Corporation, Raigarh as on 24-12-2012, entered into criminal conspiracy with other co-accused persons and accepted sub-standard rice from rice millers and obtained illegal gratification and thereby committed the offence.
5. Mr. Kishore Bhaduri, learned counsel appearing for applicant Ashok Soni, would submit that the present applicant has not committed any offence and he has been falsely implicated in the crime in question. As per the CMR analysis report 2014-15 for Kanker, rice was found to be of standard as per the specification prescribed by the competent

authority, which is apparent from the said report, there is no evidence that in connivance with rice millers, the applicant accepted sub-standard rice and obtained money from rice millers and that there is wrongful loss to the Government. He would further submit that no seizure of money has been made from the applicant. He would also submit that no witnesses examined by the prosecution have deposed against the present applicant that he has given any money to the applicant against the alleged acceptance of sub-standard rice. He would contend that Harish Soni has not been made accused whereas, he ought to have been made accused and in the instant case, charge-sheet has already been filed and no custodial interrogation of the present applicant is required. The applicant is in jail since 20-3-2015, no useful purpose will be served by keeping further the applicant in jail, as such, the applicant deserves to be granted regular bail and the application deserves to be allowed.

6. Mrs. Fouzia Mirza, learned counsel appearing for applicant Kshir Sagar Patel, would submit that no sub-standard rice was found in the quality control report so far as Raigarh is concerned, the present applicant has discharged his duty in accordance with law and Rs.2,47,000/- recovered from the possession of the present applicant is the amount which the applicant's father has got en-cashed, upon maturity of Kisan Vikas Patra which is not the amount of illegal gratification allegedly accepted by the present applicant as claimed by the prosecution. She would further submit that Harish Soni, similarly situated Junior Technical Assistant, has not been made accused, rather he has been made witness in the offence in question. The present applicant is in jail since 20-3-2015, charge-sheet has already been filed and no custodial interrogation of the applicant is required,

as such, he be released on regular bail.

7. Replying to the aforesaid bail applications filed by the applicants and opposing the same, Mr. A.S. Kachhawaha, learned Additional Advocate General appearing on behalf of the State, would submit that the applicants along with other co-accused persons entered into criminal conspiracy and the present applicants while working as Officers in the Nagarik Aapurti Nigam accepted sub-standard rice from rice millers which included more broken rice which is required to be taken by the order of Nagarik Aapurti Nigam and accepted per quintal gratification from rice millers, and part of the said gratification was retained by them and a part of that amount was sent to the Head Quarter of the Nagarik Aapurti Nigam to other co-accused persons. He would further submit following reply against each of the accused persons: -

1. Applicant Ashok Soni: Transcription reports T-07, T-83 and T-84 would clearly indicate that the applicant has obtained money from rice millers and sent it to the Head Quarter to a particular account which is also apparent from the statements made by Arvind Dhruv & Girish Sharma recorded under Section 161 of the CrPC.
 2. Applicant Kshir Sagar Patel: The statement of Smt. Sandhya Thakur, Junior Technical Assistant, would show that rice accepted by the applicant was not found as per the specification.
8. Mr. A.S. Kachhawaha, learned Additional Advocate General, would also contend that bail applications of similarly situated co-accused persons namely Sudhir Kumar Bhole, Satish Kumar Kaiwarth, Motilal

Sahu, Dilip Kumar Sharma & Kaushal Kishore Yadu have already been rejected by this Court vide order dated 16-7-2015 passed in M.Cr.C. Nos.3094/2015, 3098/2015, 3209/2015, 3102/2015 & 3185/2015, respectively and, therefore, the co-accused persons i.e. the present applicants are not entitled to be released on bail, as such, their bail applications also deserve to be rejected.

9. I have heard learned counsel for the parties and also perused the case diary and available papers with utmost circumspection.
10. A close and careful perusal of the material available in the case diary of Crime No.9/2015 would show that offence under Sections 420, 409, 109, 120-B of the IPC and Sections 13(1)(d), 13(2), 11 of the Prevention of Corruption Act, 1988 have been registered against the present applicants/accused persons along with other thirteen accused persons. It is the case of the prosecution that Chhattisgarh Civil Services Corporation constituted by State Government, collected paddy in the year 2014-15 and after getting it custom milled from the rice millers, the rice is deposited in the rice collection centre with the quality prescribed by competent authority. It is further case of prosecution that present applicants conspired with other co-accused persons and accepted sub-standard rice in violation of standard quality prescribed by competent authority and obtained huge illegal gratification from the rice millers to clear their sub-standard rice. It is also the case of prosecution that the District Managers of the said Corporation of the State collected illegal gratification eight rupees per quintal and distributed the said illegal gratification amongst the accused persons and thereby cheated and caused huge loss to the State Government by their corrupt and illegal means, which is

apparent from the fact that huge unexplained amount in total i.e. Rs.3,43,96,965/- was recovered from possession of accused persons in their office as well as in their residence on raid conducted on 12-2-2005 and thereby committed the offences.

11. It is not in dispute that bail applications of the co-accused persons namely Sudhir Kumar Bhole, Satish Kumar Kaiwarth, Motilal Sahu, Dilip Kumar Sharma & Kaushal Kishore Yadu were considered by this Court in M.Cr.C.Nos.3094/2015, 3098/2015, 3209/2015, 3102/2015 & 3185/2015 and rejected on merits vide order dated 16-7-2015. Bail applications of the present applicants are almost similar to those co-accused whose bail applications have been rejected.

12. Very recently, in the matter of **Subramanian Swamy v. Director, Central Bureau of Investigation and another**¹, the Supreme Court (Constitution Bench) while declaring Section 6-A of the Delhi Special Police Establishment Act, 1946 unconstitutional, observed as under:-

“60. Corruption is an enemy of the nation and tracking down corrupt public servants and punishing such persons is a necessary mandate of the PC Act, 1988. It is difficult to justify the classification which has been made in Section 6-A because the goal of law in the PC Act, 1988 is to meet corruption cases with a very strong hand and all public servants are warned through such a legislative measure that corrupt public servants have to face very serious consequences.”

“72. Corruption is an enemy of nation and tracking down corrupt public servant, howsoever high he may be, and punishing such person is a necessary mandate under the PC Act, 1988. The status or position of public servant does not qualify such public servant from exemption from equal treatment. The

¹ (2014) 8 SCC 682

decision-making power does not segregate corruption officers into two classes as they are common crimedoers and have to be tracked down by the same process of inquiry and investigation.”

13. Thus, taking into consideration the facts and circumstances of the case noticed hereinabove, taking into account the nature and gravity of offences, role of the applicants herein, the manner in which the present applicants are alleged to have conspired with other co-accused persons and thereby the sub-standard rice were accepted by them contrary to the standard specification prescribed by competent authority which is apparent from the quality test report conducted and submitted by the Food Corporation of India and the technical expert of the Corporation, the manner in which co-accused persons have conspired with each other and obtained huge illegal gratification from rice millers which is limpid from the statements of witnesses including rice millers recorded by the prosecution and available in the case, further taking note of the fact that in total Rs.3,43,96,965.00 (Rupees Three Crores Forty Three Lacs Ninety Six Thousand Nine Hundred and Sixty Five only) was recovered from the possession of co-accused persons from their office and their houses on raid conducted by Anti Corruption Bureau on 12-2-2015, further taking into account the severity of punishment prescribed for the aforesaid offences and keeping in mind the binding observations of Their Lordships of the Supreme Court in aforesaid case that corruption is an enemy of the nation and tracking down corrupt public servants and punishing such persons is a necessary mandate of the Prevention of Corruption Act, 1988, further taking the view that corruption is really a human rights violation specially right to life, liberty, equality and non-discrimination

and it is an economic obstacle to the realization of all human rights, further taking into consideration that charge-sheet is yet to be filed against the two co-accused persons, further taking note of the fact that bail applications of similarly situated co-accused persons Sudhir Kumar Bhole, Satish Kumar Kaiwarth, Motilal Sahu, Dilip Kumar Sharma & Kaushal Kishore Yadu have already been rejected by this Court vide order dated 16-7-2015, and further considering the nature of accusation and gravity of offence, the applicants are charged with the offences which are extremely serious and such offences are alleged to have been committed by supplying sub-standard rice, that too, in the State of Chhattisgarh, which is traditionally known as Rice Bowl of India, therefore, in the considered opinion of this Court, it is not proper to order release of present applicants on regular bail for the reasons mentioned hereinabove. Accordingly, I hereby decline the prayer for bail made by the applicants.

14. Consequently, both the bail applications filed by the applicants under Section 439 of CrPC are rejected.
15. It is clarified that the observations made in the instant order is only for the purpose of considering the application for grant of regular bail and shall not prejudice any of the parties during the course of trial or thereafter.

Sd/-
(Sanjay K. Agrawal)
Judge