

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 1255 of 2015

Heeralal Kesharwani S/o Jeevanlal, Aged About 55 Years Manager
Primary Consumer Repository Limited Society, Kharod, Police
Station & Post Shivrinarayan, Civil And Revenue District Janjgir-
Champa, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through: Police Station Shivrinarayan,
District Janjgir-Champa, Chhattisgarh

---- Respondent

And

MCRC(A) No. 1258 of 2015

Chadrashekhar Kesharwani @ Ravi S/o Heeralal Kesharwani Aged
About 25 Years R/o Kharod, Police Station & Post Shivrinarayan,
Civil & Revenue District Janjgir - Champa Chhattisgarh At Present
R/o Korba Distt. Korba Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through : Police Station Shivrinarayan,
District Janjgir - Champa Chhattisgarh

---- Respondent

For applicants – Shri Manoj Paranjpe, Advocate.
For Respondent/State – Shri Anil S. Pandey, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

18/12/2015

1. Both these anticipatory bail applications are decided by this common order as they are arising out of the same crime number.
2. These applications under Section 438 of Cr.P.C. has been filed by the applicants apprehending their arrest in connection with Crime No.186/2015, registered at Police Station Shivrinarayan, District Janjgir-Champa (C.G.) for offence punishable under Section 409 read with Section 34 of Indian Penal Code.
3. M.Cr.C.(A) No.1255/2015 is by Heeralal Kesharwani father of Chandrashekhar Kesharwani who has filed M.Cr.C.(A) No.1258/2015.

4. According to the case of prosecution the applicant Heeralal Kesharwani was the Manager of Primary Consumer Repository Limited Society, Kharod which used to distribute the rice, salt, sugar etc. to the different persons. Report was received that though goods which were sent by the government for distribution to the different fare price shops were received by the applicant Heeralal Kesharwani but it was not distributed after March. According to the case of the prosecution enquiry was made and it was found that the applicant Heeralal Kesharwani being Manager used to get the goods distributed through his two sons namely Gyaneshwar and Chandrashekhar and therefore by not distributing the goods amount of Rs.12,90,122.15 paise was misappropriated and was distributed to the persons who were not actually entitled. Further allegation is that by making forged document it was sold in the open market.

5. Learned counsel for the applicants submits that applicant Heeralal Kesharwani is the father who has filed M.Cr.C. (A) No.1255/2015. It is further contended that the father being physically disabled suffering from paraparesis and is 50% disabled was not able to move. Consequently, goods were being distributed with the help of his son Gyaneshwar Kesharwani, however when report was received that Gyaneshwar has not distributed the goods, he immediately made report to the police on 1/05/2015 and to the food officer on 2/05/2015 and also requested the Registrar to make enquiry on 7/05/2015. He further submits that on such report, enquiry was made and SDO Palmgarh conducted an enquiry and it was found that from May, 2015 foods and the other goods were not distributed and on enquiry it was revealed that Gyaneshwar has misappropriated the goods and the entire allegations have been attributed to the Gyaneshwar Kesharwani that because of him the father who was dependent on his son Gyaneshwar he having not discharged the duty

entire allegation was attributed to Gyaneshwar, therefore he submits that Chandrashekhar the other brother and Heeralal in facts of this case have not committed any offence, therefore applicants may be granted benefit of anticipatory bail.

6. Learned State counsel vehemently opposes the prayer for grant of anticipatory bail and would submit that according to the statement of Mukesh Mishra, food inspector all the goods were received either by Heeralal or Gyaneshwar or Chandrashekar.

7. I have perused the case diary and documents filed by father Heeralal Kesharwani. Perusal of the document would show that father has lodged report on 1/05/2015, 2/05/2015 and 7/05/2015 against his son that he being physically disabled he was not able to conduct the work, therefore it was delegated to the son and he committed misappropriation of the goods and the allegation have been attributed to Gyaneshwar. Perused the document of the father and the medical ailment which also shows that he is physically 50% disabled. Perused the statement of Mukesh Mishra, food inspector wherein general allegations have been made that Heeralal, Gyaneshwar and Chandrashekhar were doing business. Taking into account ailment and report of the father, prima facie it appears that work was delegated to the son, therefore considering his ailment, disablement and the age, I am inclined to extend benefit of anticipatory bail to the father Heeralal Kesharwani applicant in M.Cr.C. (A) No.1255/2015.

8. Accordingly, M.Cr.C. (A) No.1255/2015 is allowed.

9. With respect to the applicant Chandrashekhar Kesharwani in M.Cr.C. (A) No.1258/2015 it is still to be investigated whether he was in the helm of affairs as primarily the allegations includes his name too by the witnesses. Reading of the case diary shows that he may need some

custodial interrogation. Therefore, I am not inclined to extend benefit of anticipatory bail to the applicant Chandrashekhar Kesharwani in M.Cr.C. (A) No.1258/2015.

10. Accordingly, **M.Cr.C. (A) No.1258/2015** is dismissed.

11. In the result, **M.Cr.C. (A) No.1255/2015** is allowed and it is directed that in the event of arrest of the **applicant Heeralal Kesharwani** in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:-

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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/her from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
JUDGE