

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 894 of 2015

1. Abdul Rasheed Memon S/o Late Haji Abdul Musa, Aged About 50 Years R/o Nehru Nagar, Tikrapara, Raipur, Tahsil & District Raipur, Chhattisgarh
2. Anish Raza S/o Shri Abdul Hameed, Aged About 33 Years R/o Nehru Nagar, Tikrapara, Raipur, Tahsil & District Raipur, Chhattisgarh
3. Sheikh Juber S/o Shri Sheikh Ismail, Aged About 30 Years R/o Nehru Nagar, Tikrapara, Raipur, Tahsil & District Raipur, Chhattisgarh
4. Mohammed Firoz S/o Late Imdaad Khan, Aged About 40 Years R/o Nehru Nagar, Tikrapara, Raipur, Tahsil & District Raipur, Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station City Kotwali, Raipur, Chhattisgarh

---- Respondent

Shri B.P.Sharma, counsel for the applicant/s.
Shri Satish Gupta, Govt. Adv. for the State.
Shri Surfaraj Khan, counsel for the objector.

Order On Board

16/09/2015

Heard.

The applicants are apprehending their arrest in connection with Crime No.69/15 registered at police station – City Kotwali, Raipur, CG for alleged commission of offence under Section 420, 467, 468, 471, 34 of IPC.

2. Case of the prosecution is that the applicants, who are not validly appointed Mutwallis (trustees) of the Waqf under the order of the Waqf Board, have assumed themselves to function and unauthorisedly acting as Mutwallis, collected huge amount for organizing various activities of Waqf.
3. Learned counsel for the applicants submits that the action of the applicants is not criminal but bonafide assumption of status which is a matter of dispute pending in

various Fora and number of writ petitions have been filed. It is submitted that the applicants have been bonafide contesting that the applicants are duly appointed as Mutwallis and they are also trustees of the Waqf of which, objectors have been illegally declared as Mutwallis. The report was earlier made to the police and the police made detailed enquiry and submitted report before the jurisdictional Magistrate where no offence was found committed. Thereafter, an application under Section 156 (3) of the CrPC has been filed before the Magistrate and then only, offence has been registered against the applicants. It is further submitted that the applicants are not likely to abscond and if they are arrested, it would amount to abuse of police power to interfere with the functioning of the Waqf.

4. On the other hand, learned State counsel and counsel for the objector oppose the bail application and submits that the applicants have no authority to assume the role of Mutwalli of the Waqf and collecting huge amount of more than one lakh by falsely claiming that they are now Mutwallis whereas now, the Board has appointed a committee under the leadership of the objector. It is submitted that various enquiries were made by different functionaries and in all the enquiries, it has been found that the applicants are not entitled to act as Mutwallis. Even then, the applicants are flouting the order and collecting the money.

5. Taking into consideration the nature and background of dispute leading to registration of offence and that the applicants are claiming that they are Mutwallis and number of litigations are pending in different Fora and now offence has been registered when earlier police had not taken any action, I am inclined to extend the benefit of anticipatory bail to the applicants.

6. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail on each of them furnishing a personal bond in the sum of Rs.20,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicants shall make themselves available for interrogation by a Police Officer as and when required;
- (ii) that they 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 them from disclosing such facts to the Court or to any Police Officer.
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and

expeditious trial; and

- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

Manindra Mohan Shrivastava
Judge

Deepti