

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 30 of 2016

Sukhnandan Nishad S/o. Shivprasad Nishad, Aged about 30 years, (Ex Panch), R/o. of village Mahmara, Police Station- Pulgaon, Chowki, Anjora, Tahsil and District Durg (C.G.)

---- Applicant

Versus

State of Chhattisgarh Through the in charge, Police Chowki, Anjora, Police Station Pulgaon, District Durg (C.G.)

---- Respondent

AND

M C R C A No. 90 of 2016

Smt. Pyari Bai Nishad W/o. Of Manharan Nishad, aged about 32 years, (Ex-Sarpanch) R/o. of Village Mahmara, Police Station- Pulgaon, Chowki, Anjora, Tahsil and District Durg (C.G.)

---- Applicant

Versus

State of Chhattisgarh Through the in charge, Police Chowki, Anjora, Police Station Pulgaon, District Durg (C.G.)

---- Respondent

For Applicants	:-	Mr. Vivek Sharma, Advocate
For Respondent/ State	:-	Mr. Anil S Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

01/03/2016

1. Apprehending arrest in connection with the Crime No. 228/2015, registered at Police Station- Anjora, Police Station- Pulgaon, District Durg (C.G.) for the offence punishable under sections 420/34 of Indian Penal Code.

The applicants have filed these applications under Section 438 of Cr.P.C. for grant of anticipatory bail.

2. Case of the prosecution, in brief, is that an anicut was constructed over Shivrath River at village Mahmara in the year 2011, during such construction, the royalty for the sand of Rs.4,40,000/- was stated to be deposited by the contractor with gram panchayat whereas the actual amount of Rs. 3,40,000/- was deposited at gram panchayat and the fake royalty receipt bill No. 720601 to 720605 was deposited whereby an amount Rs.1,00,000/- was alleged to be paid but actually it was not deposited. It is case of prosecution that the applicant Sukhnandan Nishad was working as Ex-panch and the applicant Smt. Pyari Bai was working as Ex Sarpanch and have given forged royalty receipts to the contractor, in lieu, of payment of Rs. 1,00,000/-.

3. Counsel for the applicants submits that in the year 2011 itself by the letter dated 16.11.2011, an information was given to the Collector, Durg, that royalty receipts which was deposited for Rs. 4,40,000/- uptill the royalty receipt No. 4720501 to 4720506 was issued by Gram Panchayat Mahmara, whereas the royalty receipt 720601 to 720605 of Rs.1,00,000/- was not issued by Gram Panchayat Mahara which was deposited by the contractor. He further submits that the complaint was made by these applicants itself as the royalty receipts did not contain the signature and the counter signature of the office bearers of Gram Panchayat. Therefore, it is stated that the persons i.e the contractor who has deposited the false royalty receipts should be booked. He further submits as per RTI the alleged fake royalty receipts were issued from Mining Department to the District Collector, to the Office Mining branch at Bilaspur as per Annexure A/4. He further submits that the applicants though have reported the deposits of false receipts and had made complaint instead they have been made a scapegoat and has been falsely implicated.

4. Per contra, State counsel opposes the prayer for grant of bail and would submits that the applicants have issued forged receipts to the contractor by accepting an amount of Rs. 1,00,000/-, therefore, the applicants should not be given the benefit of anticipatory bail.

5. Perused respective royalty receipts which are the part of the records i.e. 720601 to 720605, which do not bears any signature or seal of Gram Panchayat. It appears that in the year 2011, the report was made by Gram Panchayat about the forged royalty bills wherein both the applicants had signed the complaint and such complaint was made to investigate the matter in the year 2011 to the Collector District Durg. Thereafter, the matter was investigated. Taking the primary evidence available against these applicants and the role payed by these applicants and the period of time lapsed, this Court is of the opinion that the present is the fit case, where the applicants should be enlarged on anticipatory bail.

6. Accordingly, the anticipatory bail applications are allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on executing a personal bond in sum of Rs.25,000/- with one local surety each in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions:-

- (i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that the applicants 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 the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

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

Sd/-

(Goutam Bhaduri)

JUDGE

santosh