

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.1306 of 2016

1. Ghanshyam Yadu, S/o Shri Kamaldhar Yadu, aged about 28 years, R/o Village Latapara, Post Office & Police Station Deobhog, Distt. Gariyaband (C.G.) (Computer Operator)
2. Ghasiram Yadu, S/o Shri Shobharam Yadu, aged about 40 years, R/o Village Deobhog, Post Office & Police Station Deobhog, Distt. Gariyaband (C.G.)

---- Applicants

Versus

State of Chhattisgarh, through the Station House Officer, Police Station Deobhog, Distt. Gariyaband (C.G.)

---- Non-applicant

Misc. Criminal Case No.1337 of 2016

Tulsi Ram Diwan, aged about 51 years, S/o Ghurau, R/o Village Sadak Parsuli, Police Station Gariyaband, C/o Devbhog, Police Station Gariyaband, Distt. Gariyaband (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through the Station House Officer, Police Station Devbhog (Sahar), Distt. Gariyaband (C.G.)

---- Non-applicant

ANDMisc. Criminal Case No.1355 of 2016

Gulab Yadu, S/o Bhakchand Yadu, aged about 40 years, Occupation Service (Sales-man), R/o Village Khondobhata, Tehsil Devbhog, Thana Devbhog, Civil Distt. Raipur & Revenue Distt. Gariyaband (C.G.)

---- Applicant

Versus

State of Chhattisgarh, through Station House Officer, Devbhog, Civil Distt. Raipur and Revenue Distt. Gariyaband (C.G.)

---- Non-applicant

For Applicants in M.Cr.C.No.1306/2016:	Mr. Shivendu Pandya, Advocate.
For Applicant in M.Cr.C.No.1337/2016:	Mr. Kishore Bhaduri, Advocate.
For Applicant in M.Cr.C.No.1355/2016:	Mr. Punit Ruparel, Advocate.
For Non-applicant/State:	Mr. Adhiraj Surana, Dy.G.A.

Hon'ble Mr. Justice Sanjay K. Agrawal

Order On Board05/04/2016

1. Since the above three 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.42/2015 (Criminal Case No.241/2015 pending in the Court of Judicial Magistrate First Class, Devbhog), registered at Police Station Devbhog, Distt. Gariyaband for the offence punishable under Sections 409, 420, 423, 467, 468, 471 and 120B of the IPC.
3. Case of the prosecution, in brief, is that the applicants and other co-accused Brijlal Bisi and Kumud Kumar Sahu in the year 2013-14 committed certain irregularities being the office bearers of the Prathmik Krishi Sakh Sahkari Samiti Maryadit, Jhakharpara, Distt. Gariyaband and embezzled an amount of Rs.4,01,96,145/- (24,966.55 quintals of paddy), and thereby committed the offence.
4. Mr. Kishore Bhaduri, learned counsel appearing for applicant Tulsi Ram Diwan, submits that the applicant was at the relevant time posted as Samiti Prabandhak / Supervisor, he has not committed any offence, he has been falsely implicated in the case, his work was only to supervise the entire paddy purchased, there is no role played by the applicant in the offence in question which is apparent from the enquiry report submitted by the Collector and in which no misappropriation has been found to be done by the applicant. The only allegation against the applicant is relaxation in performance of his duty of supervising the paddy purchased which is at the most

open for departmental action, but not criminal liability is made out against the applicant, as there is not an iota of evidence by which it can be said that he committed criminal forgery or criminal breach of trust. Charge sheet has been filed on 16-12-2015 and the applicant is in jail since 23-9-2015 and therefore, he be released on bail.

5. Mr. Punit Ruparel, learned counsel appearing for applicant Gulab Yadu, submits that the applicant has not committed any offence, he has been falsely implicated and there is no direct or indirect evidence available against him. As far as the story of misappropriation is concerned, it is not possible to manipulate the bank record, there is no evidence against the applicant and the applicant is in jail since 23-9-2015, therefore, he be released on bail.
6. Mr. Shivendu Pandya, learned counsel appearing for applicants Ghanshyam Yadu and Ghasiram Yadu, submits that the applicants have not committed any offence, they have been falsely implicated in the case and there is no evidence at all against the present applicants. Applicant Ghanshyam Yadu was Computer Operator at particular time and applicant Ghasiram Yadu was President of the Society, they are in jail since 23-9-2015 and therefore, they be released on bail.
7. Opposing the bail application of Tulsi Ram Diwan, Mr. Adhiraj Surana, learned Deputy Govt. Advocate appearing for the State, submits that Tulsi Ram Diwan was the Samiti Prabandhak in addition to Supervisor of the said Samiti, he did not properly supervised the transaction of paddy which resulted in loss of Rs.4,01,96,145/- and which could have been avoided by performing the duty properly, as such due to his non-performance of duty in accordance with Rule 35,

consequential embezzlement has been done by the accused persons and therefore, he is not liable to be released on bail. Opposing the bail application of Gulab Yadu, he further submits that Gulab Yadu was the Fund In-charge when the purchase of paddy was made and he embezzled Rs.1,45,000/- in purchase of paddy by producing forged measurement documents and therefore, he is not entitled to be released on bail. Opposing the bail application of Ghanshyam Yadu and Ghasiram Yadu, he also submits that Ghanshyam Yadu is Computer Operator, he made forged entry in the computer which enabled to embezzle the amount of the society and he prepared forged measurement register which enabled the President of the Society namely Ghasiram Yadu to commit such embezzlement of public money which took place in the society and therefore, they are not entitled to be released on bail.

8. I have heard learned counsel for the parties and perused the material available on record.
9. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, and role of applicant Tulsi Ram Diwan who at the relevant time was posted as Samiti Prabandhak and also on the post of Supervisor but has failed to perform his duty in accordance with law and thereby huge embezzlement was said to have been committed in the said Society, I do not consider it a fit case for grant of bail to applicant Tulsi Ram Diwan. Consequently, M.Cr.C. No.1337/2016 filed on behalf of Tulsi Ram Diwan is rejected.
10. Taking into consideration the role of applicants Ghanshyam Yadu, Ghasiram Yadu and Gulab Yadu, evidence available in the case diary and the manner in which huge amount of Rs.4,01,96,145/- came to

be misappropriated, I do not consider it a fit case for grant of bail to applicants Ghanshyam Yadu, Ghasiram Yadu and Gulab Yadu also. Accordingly, M.Cr.C.No.1306/2016 filed on behalf of Ghanshyam Yadu & Ghasiram Yadu and M.Cr.C.No.1355/2016 filed on behalf of Gulab Yadu are also rejected.

Sd/-
(Sanjay K. Agrawal)
Judge

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