

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 520 of 2016

- Pratul Shriwastava S/o Late Ramkunmar Shriwastawa
Aged About 57 Years Occupation Service (Draftsmen),
Presently Posted At Bhilai Nagar Nigam), R/o Kaserpara
Chakradharnagar Raigarh Tahsil & Distt. Raigarh
Chhattisgarh. --- **Applicant**

Versus

State of Chhattisgarh Through P.S. City Kotwali Raigarh
District Raigarh Chhattisgarh. --- **Respondent**

For the applicant : Mr. Vineet Kumar Pandey, Advocate.
For the State : Mr. Anil S. Pandey, Govt. Advocate.

MCRCA No. 527 of 2016

- Ashok Kumar Kumbhkar S/o Kishori Lal Kumbhkar Aged
About 38 Years Occupation - Service (Sub-Engineer On
Contract) R/o T V Tower Road Raigarh Tah. & Distt. -
Raigarh Chhattisgarh --- **Applicant**

Versus

- State of Chhattisgarh Through : P.S. - City Kotwali
Raigarh Distt. Raigarh Chhattisgarh --- **Respondent**

For the applicant : Mr. Vineet Kumar Pandey, Advocate.
For the State : Mr. Anil S. Pandey, Govt. Advocate.

MCRCA No. 625 of 2016

- Pramod Shukla S/o Hetram Shukla Aged About 58 Years
R/o Village Saliyapara, Post - Tahsil - Police Station - Pali,
District - Korba Chhattisgarh --- **Applicant**

Versus

- State of Chhattisgarh Through : S. H. O., Police Station
City Kotwali, Raigarh, District - Raigarh Chhattisgarh ---
Respondent

For the applicant : Mr. Sudeep Agrawal, Advocate.
For the State : Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

22.12.2016

1. Apprehending arrest in connection with Crime No. 252 of 2016 registered at Police Station City Kotwali, Raigarh, Distt. Raigarh (C.G) for the offences punishable u/ss 420, 409/34, 120-B of IPC and section 13(1)(d) & 13(2) of the Prevention of Corruption Act, the applicants have filed these applications u/s 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. Since all these applications arising out of the same crime number, they are being disposed of by this common order.
3. As per the prosecution case, applicant Pratul Shriwastava who was working as Drafts Man, applicant Ashok Kumar Kumbhkar who was working as Sub-Engineer and applicant Pramod Shukla who was working as Municipal Commissioner while granting licence to the Himalay Heights under the Chhattisgarh Nagar Palika (Registration of Coloniser, Terms and conditions) Rules, 1998 got the land transferred to the extent of 15% which was meant for the Economically Weaker Sections (EWS) without sanction of the Town & Country Planning and the map attached with the deed did not contain the approval

of Town and Country Planning. It is further case of the prosecution that the land outstees whose properties are taken for widening roads or otherwise were not allotted the area of land which was reserved for EWS thereby the offence has been committed.

4. Learned counsel for the applicants would submit that while the colonizer licence was granted under Nagar Palika (Registration of Coloniser, Terms and Conditions) Rules 1998 which was framed under the Municipal Corporation Act, as per Rule 10 thereof, 15% of the developed land shall have to be reserved for the EWS. Reference was also made to a document which is copy of the the transfer deed wherein the Coloniser Inderpal Singh Bhatia through his power of attorney has transferred the land of 29044 square feet in favour of the Municipal Corporation and it is submitted that the said map was furnished by the colonizer and 15% of the land was reserved as per the map and the colonizer rule do not contemplate that the map should be approved by the Town and Country Planning. It is further submitted that the applicants were not authorised to allot the land and as per Rule 10 sub-rule (7) of the Rules 1998, the Collector being Chairman and other officers being members of the Committee have to allot the land to the persons of EWS, therefore, learned counsel for the applicants submit that in the facts and circumstances of the case, no offence has been made out against the present applicants.
5. Per contra, learned State Counsel opposes the prayer for grant of anticipatory bail and submits that without

approval of the map by the Town and Country Planning, the transfer deed to the extent of 15% of the land was executed by the Colonizer in favour of the Municipal Corporation and the said lands were not further allotted to the persons of EWS who were entitled under the Law, therefore, the applicants have committed offence.

6. The transfer deed annexed to M.Cr.C(A). No. 520/ 2016 is a registered transfer deed which shows that 29044 square feet of land was transferred in favour of Municipal Corporation wherein Pratul Shrivastava has represented the Commissioner, Municipal Corporation. The map is also enclosed to the deed which shows that the area is ear-marked for the people of EWS. It is not disputed that 15% of the land has not been kept for EWS. On a query which was specifically made to the State that whether the allotment has been made by the State to the EWS people, it is stated by the learned State Counsel that on the basis of communication received by the Station House Officer till date no allotment has been made. Rule 10(7) of the Rules 1998 speaks about the about the committee of allotment which is headed by the Collector and other officers. Therefore, if the allotment has not been made, the Collector and other Members of the Committee so constituted have to work on it.
7. Taking into the totality of the facts situation of the case and the role attributed to the applicants, I am inclined to allow these bail applications.
8. Accordingly, the applications are allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they will be

released on bail by the officer arresting them on each of them executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the officer arresting them or the concerned Investigating Officer. The applicants shall also abide by the following conditions :-

- (i) that they shall make themselves available for interrogation before the investigating 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 him/her from disclosing such facts to the Court or 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.

C.c. as per rules.

Sd/-
GOUTAM BHADURI
JUDGE