

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 941 of 2016

- Yashwant Kumar Bibhar S/o Late Chainuram Bibhar Aged About 36 Years Caste - Ganda, Occupation - Cultivator, R/o Village - Jamli, Police Station - Khallari, Tahsil - Bagbahra, District - Mahasamund Chhattisgarh --- **Petitioner**

Versus

- State of Chhattisgarh through the Station House Officer, Police Station - Bagbahra, District - Mahasamund Chhattisgarh --- **Respondent**

For the applicant : Mr. Vikash Pradhan, Advocate.
For the State : Mr. Anil S.Pandey, Govt. Advocate

MCRCA No. 957 of 2016

- Nathuram Mahanand S/o Shri Bhauram Mahanand, Aged About 40 Years Caste Gada, R/o Village Ghothiyapani, Post Hathibahara, Police Station And Tahsil Bagbahara, District Mahasamund (Chhattisgarh). --- **Petitioner**

Versus

- State of Chhattisgarh through the Station House Officer, Police Station Bagbahara, District Mahasamund (Chhattisgarh). --- **Respondent**

For the applicant : Mr. V.K. Pandey, Advocate.
For the State : Mr. Anil S.Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

07.10.2016

1. Apprehending arrest in connection with Crime No. 147/2016 registered at Police Station Bagbahra, Distt. Mahasamund (C.G) for the offence punishable u/ss 420, 467, 468, 471 of IPC, the applicants have filed these applications u/s 438 of the Code of Criminal Procedure.

2. Since both these applications are relating to the same crime number, they are being decided by this common order.
3. As per the prosecution case, a report was made by the Development Officer of Janpad Panchayat, Bagbahra that with respect to distribution of amount to different beneficiaries under the Indira Awas Yojna which was meant for construction of the houses, the applicants who were acting as mediators/agents in connivance with officer of the Janpad Panchayat facilitated the withdrawal of instalments in favour of beneficiaries without there being completion of required phase of construction which ought to have been completed before the amounts are withdrawn. The allegations against the present applicants are that they have acted as mediators/agents between the beneficiaries and the officers of the said Janpad Panchayat and facilitated the amounts to be withdrawn by the beneficiaries in illegal manner. After such withdrawal, the applicants used to get commission from the beneficiaries and pass on certain amounts to the officers.
4. Learned counsel appearing for applicants would submit that there is no evidence available against the applicants and it is only alleged that these applicants were working as Agents between the beneficiaries and the officers to facilitate the amount to reach to the beneficiaries and no criminality has been committed by them as they were not part of the institution of Janpad Panchayat, therefore, they may be enlarged on anticipatory bail.

5. Per contra, learned State Counsel opposes the prayer for grant of anticipatory bail.
6. Perused the case diary and the statement which was recorded during departmental enquiry. The case diary shows the names of beneficiaries Gajanand, Tikeshwar, Banmali, Dharmu, Goverdhan and Murli. All they have availed the benefit of the Scheme. Certain amounts were allowed to be given to them and few of the beneficiaries got the amount. It appears that the applicants have acted as mediators/agents and facilitated the amounts to reach to the beneficiaries without completion of required phase of construction. In the departmental enquiry initiated against the delinquent officers, it was held that the applicants alongwith other co-accused in connivance with each other by opening different accounts of beneficiaries allowed the first instalment to reach, however, the second was not allowed to the beneficiaries.
7. Taking into such facts situation of the case, it is not a case where the benefit of section 438 Cr.P.C., can be extended to the applicants. Accordingly, both the applications are rejected.

Sd/-

**GOUTAM BHADURI
JUDGE**