

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A) No. 1036 of 2016

1. Sanni Patel S/o Rajnikant Dulabhai Patel, Aged About 31 Years,
2. Smt. Anju Ben, W/o Rajnikant Dulabhai Patel Aged About 54 Years,

Both R/o M/s Rassion Energy India Pvt. Ltd., C - 10, In Front Of Nandan Van Complex Town Hall, Egis Bridge, Ahamadabad, Gujarat.

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Supela, Bhilai, District Durg, Chhattisgarh.

---- Respondent

For applicants – Smt. Fouzia Mirza, Advocate.
For Respondent/State – Shri Sangarsh Pandey, Dy.G.A.
For objector – Shri Somkant Verma, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order

2/12/2016

1. Bail application in respect of applicant No.1 Sanni Patel was dismissed as withdrawn on 4/11/2016. Therefore, bail is considered for applicant No.2 Smt. Anju Ben only.
2. This application under Section 438 of Cr.P.C. has been filed by the applicant No.2 Smt. Anju Ben apprehending her arrest in connection with Crime No. 480/2016 registered at Police Station Supela, Bhilai, Distt. Durg (C.G.) for offence punishable under Sections 420, 34 of Indian Penal Code.
3. As per the prosecution case, complaint was made by Udai Dutta, General Manager of Simplex Casting Limited, Bhilai that company has provided amount of Rs.1,68,02,771/- to Rasson Energy India Pvt. Ltd. to purchase machine 30, Ton Work over Rig with Mobile Mud Pump Kelly,

Bop with hydraulic operating system, swell, tank handling tools and all equipment. Though it was agreed would be purchased in the name of Simplex Casting Limited, Bhilai but was purchased in the name of the company Rasson Energy India Pvt. Ltd. Thereafter, certain agreement was drawn that the company Rasson Energy India Pvt. Ltd. would pay certain amount to the company Simplex Casting Limited, Bhilai but the same was not paid and it was also agreed that the machine would be transferred in the name of Simplex Casting Limited, Bhilai was not being done as per the agreement dated 18/08/2015. Thereby, offence has been committed.

4. Learned counsel for the applicant submits that it is out and out civil liability and nature of transaction would show that Rasson Energy India Pvt. Ltd. could not pay the amount. She submits that it is contractual liability which cannot be treated to be criminal liability. More so, entire transaction was carried out by Sanni Patel who is son of the applicant No.2 and applicant No.2 Anju Ben was only director in her capacity and was not controlling day to day affair of the company. She submits that the applicant being a lady, she may be granted benefit of anticipatory bail.

5. Learned State counsel opposes the prayer for grant of anticipatory bail.

6. Perused the case diary and the documents. Case diary also contains agreement dated 18/08/2015 as also the various email communication between the parties which prima facie reveals that entire business was carried by Sanni Patel. Taking into nature of allegation and the role played by the applicant No.2 Smt. Anju Ben and she being a lady, I am inclined to extend benefit of anticipatory bail to **applicant No.2 Smt. Anju Ben.**

7. Accordingly, the anticipatory bail application in respect of **applicant No.2 Smt. Anju Ben** is allowed and it is directed that in the event of arrest of the **applicant No.2 Smt. Anju Ben** in connection with the aforesaid offence, she shall be released on bail by the officer arresting her on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant No.2 shall also abide by the following conditions:-

- (i) that the applicant No.2 shall make herself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant No.2 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 to any police officer;
- (iii) that the applicant No.2 shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) the applicant No.2 shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

Sd/-
(Goutam Bhaduri)
JUDGE