

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 4407 of 2017

- Radheshyam S/o Pusauram Nishad, Aged About 24 Years, R/o Akalwara, Police Chowki Devkar, Police Station Saja, District Bemetara, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Saja, District Bemetara, Chhattisgarh.

---- Non-applicant

And

MCRC No. 4596 Of 2017

- Sunil Kumar Tiwari S/o Shri Ashok Kumar Tiwari, Aged About 25 Years, R/o 41 A/01/02 I Bari Bagiya Ward No.06, Post Teliyar Ganj Police Station Coloneal Ganj Allahabad, Uttar Pradesh.

---- Applicant

Vs

- State Of Chhattisgarh Through District Magistrate, District Bemetara, Chhattisgarh. S H O Police Chowki Deokar, Police Station Saja, District Bemetara, Chhattisgarh.

---- Non-applicant

For Applicant – Shri P.P. Sahu, Advocate (in MCRC No.4407/2017),
Shri S.K.Agrawal, Advocate (in MCRC No.4596/2017).

For Non-applicant/State – Shri Om P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

07-11-2017

1. As both the matters arise out of the same crime number, i.e., Crime Number No.136/2017 registered at Police Chowki Deokar, Police Station Saja, District Bemetara, C.G. for the offence under Section 420, 409, 34 of the IPC, Section 13(1)(d) of Prevention of Corruption Act 1988, they are being decided by this common order.

2. Heard on both the applications filed under Section 439 of the Cr.P.C.

These are first bail application before this Court by the applicants.

3. It is submitted by learned counsel for applicant Radheshyam that as per the case, main accused Bank Manager Ashok Samaddar obtained signature of various account holders of Gramin Bank Devkar on deposit forms and withdrawal forms and he used the same to deposit a huge amount of old currency notes at the time of demonetization and with the help of withdrawal form withdrew the deposited amount in the form of new currency notes. It is alleged that applicant Radheshyam and Sunil Kumar Tiwari had conspired and collaborated with the main accused. It is further submitted by learned counsel for applicant Radheshyam that applicant Radheshyam is not an employee of Gramin Bank Devkar, hence, he is not associated in the crime and he has not benefited with any of the transactions made by the main accused because the amount misappropriated or defalcated has been recovered from the main accused. It is prayed that he may be enlarged on bail.

4. It is submitted by learned counsel for applicant Sunil kumar Tiwari that the applicant is Cashier in the said Gramin Bank. None of the witnesses has given any statement against him. Only the statement of the main accused and memorandum under Section 27 of the Evidence Act cannot be made a ground against him. Hence, it is prayed that applicant Sunil Kumar Tiwari may be granted bail.

5. Learned counsel for the State/non-applicant opposes the applications and submissions and submits that both the applicants have associated in the fraudulent transactions made by the main accused, that is how the main accused came into possession of the new currency notes to the tune of more than Rs.18 lacs, which could not have been possible without the help of Cashier of the Bank as the withdrawal was made in the name of account holders whereas the amount was found in the possession of the main accused. Hence, for these reasons the applicants are not entitled for grant of bail.

6. Heard learned counsel for both the parties and perused the case diary.

7. Considering the submission and contents of the case diary, it appears that main accused Ashok Samaddar, Branch Manager had been instrumental in collecting the signed deposit and withdrawal forms from the account holders, which were used by him to deposit the old currency notes and withdraw the new currency notes. A bulk of withdrawn currency notes were seized from the possession of main accused Ashok Samaddar. Looking to the evidence of the witnesses against applicants Radheshyam and Sunil Kumar Tiwari, this Court is of the considered view that both these applicants deserve to be released on bail.

8. Consequently, both the applications (MCRC No.4407/2017 and MCRC No.4596/2017) filed under Section 439 of the Cr.P.C. by the applicants are hereby allowed. It is directed that the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge