

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5489 of 2017

Smt. Neha Singh W/o Pankaj Singh, Aged About 35 Years R/o Thakurpur, Police Station Jainpur, Surajpur, District Surajpur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Police Station Jainpur, Surajpur, District Surajpur Chhattisgarh.

---- Respondent

And

MCRC No. 7095 Of 2017

Pankaj Singh S/o Rajbahadur Singh Aged About 45 Years R/o Thakurpur, Police Station Jainagar , Surajpur District Surajpur Chhattisgarh.

---- Applicant

Vs

State Of Chhattisgarh Through Police Station Jainagar District Surajpur Chhattisgarh.

---- Respondent

For Applicants	:	Shri Vaibhav Goverdhan, Advocate
For State	:	Shri Shashank Thakur, Govt. Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

23/11/2017

Heard.

1. MCRC No.5489 of 2017 and MCRC No.7095 of 2017 are being disposed off by this common order as all these bail applications arise out of Crime No.145 of 2017 registered in Police Station- Jainagar, District- Surajpur (C.G.) for

alleged commission of offence under Sections 420, 467, 468, 471 read with Section 34 IPC.

2. Case of the prosecution, in brief, is that in the name of providing constructed residential houses under a residential scheme, the applicants collected money from the complainants and many other intending purchasers under an agreement but thereafter the applicants did not handover constructed house to the complainant.
3. Learned counsel for the applicants would submit that it is not a case where money was collected in the name of construction of house without there being any land, colonizer licence or that no construction was made. He would submit that even according to material in the charge sheet, the construction had already commenced but it could not be completed for various reasons relating to economic viability of the project. He would submit that in such a case, it would be a case of civil liability and no criminality. The applicant Neha Singh is in jail since 3.8.2017 and applicant Pankaj Singh is in jail since 22.9.2017. Therefore, at this stage, when the investigation is complete and charge sheet has also been filed, the applicants are not likely to abscond, they may be released on bail
4. On the other hand, learned counsel for the State, opposing the bail application, submits that the applicants entered into agreement with number of intending purchaser of house under which they had agreed to construct and deliver houses within stipulated time. The applicants collected money from those buyers on the assurance of providing constructed house but construction was not completed nor the constructed buildings were handed over to the complainants. It is submitted that in this manner, the applicants cheated large number of buyers.
5. Taking into consideration the submissions made by learned counsel for the parties, particularly taking into consideration the submission that according to the applicants, the only part payments were made, considering that the whole dispute is with regard to payment and it appears to be a case of failure on the part of the builder to complete construction and further that some constructions had already commenced but could not be completed and therefore delivery was not made, both the applications are allowed.

6. 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/- along with two local sureties for the like amount to the satisfaction of the concerned trial Court, with following further conditions:

- (i) The applicants shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (ii) The applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Praveen