

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1195 of 2016

- Smt. Aljeet Kujur W/o Eliyajar Kujur, Aged About 54 Years Occupation Incharge Principal, Higher Secondary School, Municipal Corporation, Raigarh, R/o Kharraghat, Beladula, Police Station Chandradhar Nagar, Tahsil And District Raigarh Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station - City Kotwali, District Raigarh Chhattisgarh

---- Respondent

MCRCA No. 1276 of 2016

- Anil Kumar Bajpai S/o Late Radharaman Bajpai, Aged About 45 Years Occupation, Service, Municipal Corporation, Raigarh, R/o Sarangarh Road, Raigarh, Police Station City Kotwali, Tahsil & District Raigarh (Chhattisgarh).

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station City Kotwali, Raigarh, District Raigarh (Chhattisgarh).

---- Respondent

&

MCRCA No. 1288 of 2016

- Gangadeen Sarthi S/o Late Bahuran Sarthi Aged About 64 Years Retired Revenue Inspector, Municipal Corporation, Raigarh, R/o Village- Turibhatha, Police Station & Tahsil- Kharsia, District- Raigarh, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station- City Kotwali, Raigarh, District- Raigarh, Chhattisgarh

---- Respondent

For Applicant : Mr. Awadh Tripathi, Advocate
in MCRCA No 1195/2016

For Applicant s : Mr. Sachin Singh Rajput, Advocate
in MCRCA Nos. 1276/2016
& 1288 of 2016

For Respondent/State : Mr. Sangarsh Pandey, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

13-01-2017

1. Since the aforesaid cases arise out of same Crime No.250 of 2016, they are heard analogously and are being disposed of by this common order.
2. Apprehending arrest in connection with Crime No. 250 of 2016 registered at Police Station City Kotwali, Raigarh, District Raigarh (CG) for offence punishable under Sections 420, 409/34, 120-B of IPC and Section 13(2) & 13 (1)(d) of Prevention of Corruption Act, the applicants have preferred these bail applications for grant of anticipatory bail.
3. As per case of the prosecution, a report was made by Nohar Ram Sahu on 25-4-2016 that the applicants who were members of the Scrutiny Committee which was formed to regularize the employees of the Municipal Corporation recommended the names of 50 persons in two lots in their meeting held on 14-1-2015 and 9-10-2015 and on that basis regularization was made though the persons who were regularized were not entitled to be regularized in Municipal Corporation. It is stated that circular of 2008 of State Government which only permits that person can be considered for

regularization if he was in service prior to 2007 and without following the same the regularizations were made.

4. Mr. Awadh Tripathi, learned counsel appearing for the applicant in M.Cr.C.A.No.1195 of 2016 would submit that the applicant Smt. Aljeet Kujur was Incharge of Municipal School, Raigarh, she took Incharge after retirement of Smt. Sudha Upadhyay. After examination of the documents, recommendation were made and no criminality can be attributed to her as it was a joint decision.
5. Mr. Sachin Singh Rajput, learned counsel appearing for the applicants in M.Cr.C.A.Nos1276 of 2016 and 1288 of 2016 would submit that Gangadeen Sarthi was a member of both scrutiny committees which were held on 14-1-2015 and 9-10-2015. Scrutiny was made for recommendation of regularization of the employees who were working prior to 1997 as regularization was sought from respective departments and various Heads of departments had furnished records/certificates and on that basis recommendation was made. It is further submitted that the applicant Anil Kumar Bajpai was member of scrutiny committee held on 9-10-2015 wherein recommendation was made. Considering the departmental documents which were forwarded to them by various departments of Municipality as the persons who were regularized, were working in different departments of Municipal Corporation, it is not possible to disbelieve the official information received from various heads of departments. It is further submitted that after regularization few of the persons were terminated which was subject of challenge in W.P.S.No.1459 of 2015 and W.P.S.No. 2864 of 2016 wherein protection was granted to persons who were terminated. Consequently, it cannot be stated that the applicants had

committed criminality, therefore, the applicants may be extended the benefit of Section 438 of the Cr.P.C.

6. Learned State counsel opposes the prayer for grant of anticipatory bail.
7. I have heard learned counsel for the parties, perused the case diary and documents.
8. Perusal of the documents would show that two scrutiny committees were held on 14-1-2015 and 9-10-2015 and the names of 50 persons were recommended in different lots of 25 each. It appears that the recommendation was made on the basis of the documents available which were before scrutiny committee.
9. Taking into consideration all the facts and circumstances of the case, considering the official act, the role played by the applicants, and the nature of documents available, the court is of the view that no custodial interrogation may be required in view of the law laid down in case of **Bhadresh Bipinnhai Sheth vs. State of Gujarat and another, reported in (2016) 1 SCC 152**. Therefore, I am inclined to extend benefit of anticipatory bail to the applicants.
10. Accordingly, the bail applications filed under Section 438 of Cr.P.C., for grant of anticipatory bail are allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them executing a personal bond in the sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions:

- (i) that the applicants shall make themselves available for interrogation before the Investigating Officer as and when required.
- (ii) that the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) 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/-
(Goutam Bhaduri)
Judge

Raju