

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 138 of 2018

Nand Kumar Patel S/o Nutan Prasad Patel Aged About 51
Years Occupation Farmer R/o Village Kunkuri P.S.
Kharsiya District Raigarh Chhattisgarh, District : Raigarh,
Chhattisgarh ---Petitioner

Versus

State of Chhattisgarh through Police Station Kharsiya
District Raigarh Chhattisgarh, District : Raigarh,
Chhattisgarh --- Respondent

For the applicant : Mr. Sharmila Singhai, Advocate.
For the State : Mr. Sangharsh Pandey, Dy. Govt. Adv.

MCRCA No. 210 of 2018

Rupram Rathiya S/o Shobhitram Rathiya Aged About 48
Years Occupation Service (Panchayat Secretary), R/o
Village Bandadarha, Police Station Dabhara, District
Janjgir Champa Chhattisgarh, District : Janjgir-Champa,
Chhattisgarh --- Petitioner

Versus

State of Chhattisgarh Through Station House Officer,
Police Station Kharsia, District Raigarh Chhattisgarh,
District : Raigarh, Chhattisgarh --- Respondent

For the applicant : Mr.Kamal Kishore Pandey, Advocate.
For the State : Mr. Sangharsh Pandey, Dy. Govt. Adv.

MCRCA No. 413 of 2018

Bhupendra Patel S/o Laxmi Narayan Patel Aged About 40
Years R/o Dabhra, District Janjgir Champa Chhattisgarh,
District : Janjgir-Champa, Chhattisgarh --- Petitioner

Versus

State of Chhattisgarh through the Station House Officer,
Police Station Kharsiya, District Raigarh Chhattisgarh,
District : Raigarh, Chhattisgarh --- Respondent

For the applicant : Mr. Abhishek Singh, Advocate.
For the State : Mr. Sangharsh Pandey, Dy. Govt. Adv.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

08.05.2018

1. Apprehending arrest in connection with Crime No. 618/2018 registered at Police Station Kharsiya, Distt. Raigarh (C.G) for the offences punishable under section 420/34 of IPC, the applicants have filed these applications u/s 438 of the Code of Criminal Procedure.
2. Since all these applications are relating to the same crime number, they are decided by this common order.
3. As per the prosecution case, a report was made by Kanhaiya Ram Rathiya that he received compensation of Rs.44,22,275/- in lieu of acquisition of land which was deposited in the District Cooperative Bank, Dabra on 06.01.2012 and having coming to know this fact, the present applicants along-with other accused in order to deceive the complainant allured him that the amount so received by him would earn more interest in other Banks and as such got withdrawn the amounts from the Cooperative Bank by taking his thumb impressions on the withdrawal forms. It is alleged that on 06.01.2012, Rs.21 lakhs was withdrawn. Again on 07.01.2012 Rs.15,22,000/- was withdrawn and on 13.01.2012, Rs.8 lakhs was withdrawn and the present applicants in connivance with each other deceived complainant

Kanhai Ram Rathiya and took away the amounts, thereby, the offence has been committed.

4. Learned counsels for the applicants would submit that the bald allegations have been made against the applicants and the money which is alleged to have been got withdrawn was actually withdrawn by the complainant himself and the incident is of the year 2012. They further submit that earlier two investigations were carried out, one by SDO Khasia wherein no offence was found to have been committed and the second was conducted by the T.I., Dabra wherein also no offence was found to have been committed and the 3rd investigation is pending before the Chandrapur Police, however, again the complaint has been made on which the present FIR is registered. They further submits that though the amounts are alleged to have been withdrawn but there is no allegation that the applicants have received the amounts.
5. Per contra, learned State Counsel opposes the prayer and submits that according to the statements of witnesses, the offence has been committed.
6. Perused the case diary and the documents filed alongwith the petition. The incident appears to have taken place in the year 2012 and the report was lodged much after time i.e., in the month of March, 2014. Initially the S.D.O (Police) has conducted the investigation in the year 2015 wherein it was found that no offence was made out. Subsequently again the report was made.

7. Considering the fact that the incident is of the year 2012 and the report was made in the year 2014 and initially when the enquiry has already been conducted prima facie it appears that the applicants have cooperated in the investigation and looking into the period of delay in filing the initial complaint and further considering the facts situation of the case, I am inclined to allow these bail applications.
8. Accordingly, the applications 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 him on each of them executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the officer arresting him or the concerned Investigating Officer. The applicants shall also abide by the following conditions:-
- (i) that they shall make himself available for interrogation before the investigating officer as and when required;
 - (ii) that they 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 any police officer;
 - (iii) that they shall not act in any manner which will be prejudicial to fair and expeditious trial; and
 - (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**