

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1081 of 2017

1. Sabyasachi Mishra S/o Shri Basant Kumar Mishra, Aged about 24 Years, Sub Contractor (Aadhar Card) R/o Village Brahmanbhui, P.S. Kishan Nagar, District Cuttack (Orissa).
2. Pabitra Kumar Behera, S/o Shri Pratap Behera, Aged about 21 years, Daily Wage Employee, R/o Village Brahmanbhui, P.S. Kishan Nagar, District Cuttack (Orissa).
3. Dayanidhi Panda, S/o Shri Suryamani Panda, Aged about 21 years, R/o Village Kunjbiharipur, P.S. Jajpur, District Jagatsinghpur (Orissa)

---- Applicants

Versus

State of Chhattisgarh Through the Police Station – Bodhghat, District Bastar (Chhattisgarh)

---- Non-applicant

For Applicants	:	Mr. Keshav Dewangan, Advocate.
For the State/Non-applicant	:	Mr. Vijay Bahadur Singh, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

02/02/2018

1. Apprehending arrest in connection with Crime No.266/2015 registered at Police Station Bodhghat, District Bastar (C.G.) for the offence punishable under Section 406 of the IPC, the applicants have filed this application under Section 438 of the Cr.P.C. for grant of anticipatory bail.
2. Learned counsel for applicants submits that the applicants are innocent and have been falsely implicated in this case. Applicant No.1 was employed by complainant - Zia-ul-Haque for the purpose of generating and preparing Aadhar Cards in the Bastar District.

Applicant No.1 in-turn employed applicants No.2 and 3 as his assistants. Consequent to works performed for the complainant, applicant No.1 raised a bill of Rs.10,75,452/- to be paid by the complainant. The complainant paid only Rs.4,40,000/- and promised to pay remaining amount later on and thereafter, he sent an E-mail to applicant No.1 on 09-07-2015 stating that the kit for preparation of Aadhar Cards be kept in possession of the applicant and on payment of remaining amount of the bill, the same be returned to the complainant. Later on, without any basis, the complainant has lodged an FIR on 15-10-2015 in Police Station Bodhghat, alleging that the applicants have committed criminal breach of trust by removing all the articles for preparation of Aadhar Cards. Subsequently, the complainant has sworn in an affidavit before the notary stating that he has received all the kit and he does not want to proceed with the case. Hence, it is prayed that the applicants be enlarged on anticipatory bail.

3. On the other hand, learned State counsel opposes the instant bail application and submits that the contents in the FIR and the statement under Section 161 of the Cr.P.C., clearly alleged against the applicants that they have committed criminal breach of trust, therefore, they are not entitled for anticipatory bail.
4. Heard learned counsel for both the parties and perused the case diary.
5. As alleged, the applicants were employed by complainant - Zia-ul-Haque and entrusted with the kit and all electronic articles used for preparation of Aadhar Cards which have been removed by the applicants, thereby committed criminal breach of trust.
6. Taking into consideration all the material available on record and there is some dispute regarding payment between the applicants and the

complainant, I am of the considered view that the applicants should be benefited with grant of anticipatory bail.

7. Accordingly, the anticipatory bail application is 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 on each of them 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 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 them 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) that 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Kvr