

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 386 of 2018**

Smt. Suman Devi Kela Wd/o Late Parmanand Kela Aged About 51 Years R/o 10/a Shri Nikunj Sahkari Path 3 Choubey Colony P.S. Saraswati Nagar District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh.

---- Applicant**Versus**

Central Bureau Of Investigation Through The Additional Superintendent Of Police / I. O. BS and FC, Kolkata, CGO Complex, DF Block F Wing First Floor Salt Lake Kolkata West Bengal, District : Kolkata, West Bengal.

---- Respondent**And****M.Cr.C.(A) No. 429 Of 2018**

Bhansingh Thakur @ Bhansingh Rajput S/o Late Shri Pawan Singh Thakur @ Pawan Singh Rajput Aged About 62 Years Occupation Business R/o New Shanti Nagar, Near Gaurav Provision Stores Gorkha Colony, Police Station Civil Lines Raipur Chhattisgarh, District : Raipur, Chhattisgarh.

---- Applicant**Vs**

Central Bureau Of Investigation Through The Additional Superintendent Of Police / I. O. BS and FC, Kolkata, CGO Complex, DF Block, F-Wing, First Floor, Salt Lake, Kolkata W. B., District : Kolkata, West Bengal.

---- Respondent**And****M.Cr.C.(A) No. 430 Of 2018**

Deepak Kumar Gandhi @ Deepak Gandhi S/o Shri Chiranjilal Gandhi Aged About 44 Years Occupation Business, Presently R/o D-302, Palm Residency (Apartment), Block-D, Katora Talab, Raipur Chhattisgarh Permanent Address H. No. 419, Kelabadi Gali, Sanjay Nagar, Shikshak Colony, Ward No. 1, Kurud, Dist. Dhamtari Chhattisgarh, District : Dhamtari, Chhattisgarh.

---- Applicant**Vs**

Central Bureau Of Investigation Through The Additional Superintendent Of Police / I. O. BS and FC, Kolkata, CGO Complex, DF Block, F-Wing, First Floor, Salt Lake, Kolkata W. B., District : Kolkata, West Bengal.

---- Respondent**And****M.Cr.C.(A) No. 445 Of 2018**

Vijay Kumar Kela S/o Shri Muralidhar Kela Aged About 54 Years Occupation

Business, R/o House No. 16, Panchsheel Nagar, Civil Lines, Raipur
Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicant

Vs

Central Bureau Of Investigation Through The Additional Superintendent Of
Police / I. O. BS and FC, Kolkata, CGO Complex, DF Block, F-Wing, First
Floor, Salt Lake, Kolkata W. B., District : Kolkata, West Bengal.

---- Respondent

For the Applicants : Shri Abhishek Sinha, Advocate.
For the Respondent/CBI : Shri Kishore Bhaduri, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

ORDER

27.04.2018

Heard.

1. All these applications are being decided by this common order as they arise from the similar incident. These are the first bail applications under Section 438 of Cr.P.C. filed by the applicants for grant of anticipatory bail, who are apprehending arrest in connection with Crime No.RCBSK2016E0006/2016 registered at Police Station – Central Bureau of Investigation, BS & FC, Kolkata, West Bengal for the offence punishable under Sections 420, 468, 471 read with Section 120B of the Indian Penal Code.

2. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case. Applicant – Smt. Suman Devi Kela in M.Cr.C.(A) No. 386 of 2018 became a signatory of M/s. Madhu Fertilizers Limited (for short 'MFL') after the death of her husband, who was in-charge of affairs during his lifetime. It is not denied that she had put signatures on the documents which were allegedly forged and was used for issuance of

letter of credit from the concerned bank. Although, the charge-sheet has been filed before the concerned Court but till date the alleged forgery has not been verified by the forensic department. This applicant was never arrested by the police and she has cooperated in the investigation. Subsequent to filing of charge-sheet, there is no purpose left for her detention or any custodial interrogation. Hence, it is prayed that applicant – Smt. Suman Devi Kela is entitled for grant of anticipatory bail.

Learned counsel for the applicants submits that Applicant – Bhanusingh Thakur @ Bhansingh Rajput in M.Cr.C.(A) No. 429 of 2018 has been falsely implicated in this case only for the reason that he was friend of late Parmanand Kela and neither he is a signatory of any document nor a party to any transaction. Hence, it is prayed that he may be benefited with grant of anticipatory bail.

Learned counsel for the applicants submits that Applicant – Deepak Kumar Gandhi @ Deepak Gandhi in M.Cr.C.(A) No. 430 of 2018 has been falsely implicated in this case because he had been the Director and took over the affairs of M/s Madhu Fertilizers Limited after the death of his uncle late Parmanand Kela and it was only on one occasion he had approached the bank for one time settlement and no role can be attributed on his part regarding the commission of offence as alleged in this case. Hence, it is prayed that he may be benefited with grant of anticipatory bail.

Learned counsel for the applicants submits that Applicant – Vijay Kumar Kela in M.Cr.C.(A) No. 445 of 2018 has been falsely implicated in this case. It is submitted by counsel for the applicants that applicant – Vijay

Kumar Kela is the brother of late Parmanand Kela, the then Managing Director of M/s. Madhu Fertilizers Limited. He had also approached the bank for one time settlement of dues against the MFL and no other role has been played by him in the alleged offence. Hence, it is prayed that he may be benefited with grant of anticipatory bail.

3. Learned counsel for the respondent/ Central Bureau of Investigation submits that applicant – Smt. Suman Devi Kela affixed her signatures on the fabricated documents, which were used for issuance of letter of credit of UCO Bank and such LOCs were used for siphoning funds to other concerns like M/s Krishna Fertilizers Limited, the sister concern of M/s Madhu Fertilizers Limited. Applicant – Bhansingh Thakur in M.Cr.C.(A) No. 429 of 2018 was the one, who was recipient of such siphoned fund. Thus, a total amount of Rs.24,24,18,085/- was siphoned in this case. The role of applicant – Deepak Kumar Gandhi @ Deepak Gandhi in M.Cr.C.(A) No. 430 of 2018 is that in the process of application for NOC he got substituted the property, originally mortgaged with the bank with other properties which on valuation were found to be of lesser value and thus, the property mortgaged was inadequate for security to the concerned loan against MFL. Applicant – Vijay Kumar Kela in M.Cr.C.(A) No. 445 of 2018 was also one of the authorized signatory for MFL and he had affixed signatures on the documents for the various other sister concerns. Hence, specific role has been played by each of the applicants because of which, they are not entitled for grant of anticipatory bail.

4. Heard counsel for both the parties and perused the case diary.

5. According to the prosecution case, previously the MFL was indebted to Central Bank of India having a limit of Rs.7 crores with extended limit of 5.7 crores. Later on, this loan was taken over by the UCO Bank in the year 2009. The sanctioned limit was enhanced to Rs.91 crores and in this manner the total limit of the company was 106 crores. It is alleged that the forged documents were issued for obtaining the letter of credit from the UCO Bank which were misused for siphoning funds obtained as loan the sister concerns unauthorizedly and the properties that were originally mortgaged were replaced with properties of lesser value with intention to defraud the bank. On a complaint made by Nabin Kumar Dash, Zonal Manager, UCO Bank Zonal Officer, Raipur, Chhattisgarh, FIR was registered by CBI. The case has been investigated and the charge-sheet has been filed.

6. Perused the case-diary. One of the co-accused - Utpal Namichand Sarkar @ Utpal Nimaychandra Sarkar has been granted bail by this Court in M.Cr.C. No. 754 of 2018 dated 13.3.2018 in which it was brought to the notice of this Court that default has been made good and a compromise has been entered between UCO Bank and M/s Madhu Fertilizers Limited and subsequent to that the mortgaged property has been released by the bank and presently, there are no outstanding dues against MFL.

7. It is submitted by counsel for CBI that the compromise and the repayment is not denied however use of forged papers for issuance of letter of credit and extended limit is still existing, which shows that the offence of forgery etc. has been committed and the same needs to be adjudicated by the trial Court.

8. After due consideration of all the aspects of this case and also according to the guidelines laid down by the Hon'ble Supreme Court in the case of **Dataram Singh Vs. State of U.P. and Another, Order dated 6.2.2018** passed in **Criminal Appeal No. 227 of 2018**, I am of the opinion that since there is a compromise existing between the applicants and the complainant in this case and subsequent to filing of charge-sheet, no purpose would be served in keeping the applicants in detention for the whole period of trial. Hence, for these reasons, I feel inclined to grant anticipatory bail to all the applicants in all the cases.

9. Accordingly, the bail applications filed by the applicants in all the cases under Section 438 of the Cr.P.C. are allowed.

10. It is directed that in the event of arrest of the applicants in all the cases in connection with the aforesaid offence, they shall be released on bail by the Officer arresting them on 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. They 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