

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 745 of 2018**

1. Koshalya Netam, W/o. Salikram Netam, Aged About 35 Years,
 2. Faneshwar Shardul, S/o. Asharam Shardul, Aged About 40 Years,
 3. Salikram Netam, S/o. Late Sansai Netam, Aged About 43 Years
 4. Bhagilal Shardul, S/o. Late Rajuram Shardul, Aged About 75 Years,
 5. Ashok Shardul, S/o. Bhagilal Shardul, Aged About 42 Years,
 6. Asharam Shardul, S/o. Late Rajuram Shardul, Aged About 72 Years,
- R/o- Village- Banskot, Outpost- Banskot, Tahsil- Baderajpur,
District- Kondagaon, Chhattisgarh.

----Applicants**Versus**

State Of Chhattisgarh, Through - Police Station- Banskot, Kondagaon,
District- Kondagaon, Chhattisgarh.

---- Respondent

For Applicants	: Mr. P.K. Tulsyan, Advocate & Mr. R.K. Bhagat, Advocate
For Respondent/State	: Mr. Ashish Shukla, G.A.
For Objector	: Mr. Shivendu Pandya, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****21/08/2018**

1. Apprehending arrest in connection with Criminal Case No.110/2018, pending before Judicial Magistrate First Class - Keshkal, District – Kondagaon (C.G.) for offence punishable under Section 420, 409, 467, 468, 471, 120 (B) and 34 of the Indian Penal Code, the applicants have preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. Complainant Rohit Kumar Som, who is Ex-Sarpanch and present Panch has made totally false complaint against the applicants on 23.08.2015

and also filed a complaint under Section 156 (3) of Cr.P.C., before the Court below. Subsequent to that FIR was lodged and investigation was done. The concerned police station has filed closure report on 31.12.2016 submitting that no case is made out of misappropriation against the applicants, even then the concerned Court has passed order taking cognizance against the applicants on 05.05.2018, hence, it is a peculiar case. Therefore, it is prayed that the applicants may be enlarged on anticipatory bail.

3. Per contra learned State counsel formally opposes the application for grant of bail and the submissions made in this respect.
4. Counsel for the Objector submits that in the statement recorded before the trial Court in the complaint case, all the witnesses have clearly stated and given details of all the amounts that were withdrawn by the applicants for various purposes and projects and those amounts were misappropriated. Thus the applicants are responsible for all the financial irregularities committed with respect to the Panchayat. Applicant No.1 happens to be Ex-Sarpanch and others are directly related to each other and are responsible for the defalcation committed. Hence, the applicants are not entitled to be released on anticipatory bail.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. The allegation made in the complaint by the complainant against the applicants is this that on the pretext of making construction and also for the various projects, amounts were withdrawn from the Panchayat funds, which was misused and misappropriated by the

accused persons in this case after conspiring each other, thus have cheated the State exchequer.

7. Considered the submissions made and the documents placed on record. Considering on the entire material present on record of this case, the fact that the police has done all the investigation and filed closure report in this case and the cognizance has been taken against the applicant only on the basis of the statement given by the witnesses and further considering the facts and circumstances of the case, this Court is of the opinion that present is a fit case, in which the applicants should be extended the benefit of Section 438 of Cr.P.C.
8. Accordingly, both the anticipatory bail applications filed under Section 438 of Cr.P.C. are allowed.
9. 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 executing a personal bond in sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court. 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) that the applicants shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram