

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 315 of 2018

1. G.P.Pandey S/o Late Shri Jhumuk Lal Pandey, Aged About 60 Years, Presently Posted As Assistant Project Officer, Zila Panchayat Bemetara, District Bemetara R/o Village Akoli, Post Office Deori, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chattisgarh Through The District Collector, Raigarh, District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- Non-applicant

MCRC No. 6699 of 2018

1. Subhash Chandra Barik S/o Late Shri Bihari Lal Barik, Aged About 69 Years, Assistant Grade-III (Samvida), Janpad Panchayat, Pussure, District - Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh
2. Swhet Kumar Yadav S/o Shri Bodhram Yadav, Aged About 33 Years, Assistant Grade-III (Samvida), Village - Dumarmuda Jhalmala, P.S. - Pussure, District - Raigarh, Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station - Anti Corruption Bureau, District - Raipur, Chhattisgrh., District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant(s) – Shri Mateen Siddiqui, Advocate (in MCRCA No.315 of 2018),
Shri Awadh Tripathi, Advocate (in MCRC No.6699 of 2018)

For Non-applicant/State – Shri Ashish Shukla, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

01-10-2018

1. As both these applications arise out of the same crime number, i.e., Crime No.43/2014 registered at Police Station - Anti Corruption Bureau, Raipur, District - Raipur, Chhattisgarh, they are being decided by this common order.
2. MCRCA No.315 of 2018 has been filed by applicant G.P. Pandey for grant of anticipatory bail under Section 438 of the Cr.P.C. as he is

apprehending arrest in connection with aforesaid crime number for offence under Section 409, 467 and 468 of the IPC and Section 13(1) C and 13(2) of Prevention of Corruption Act, 1988 and Bhandar Kray Adhiniyan and Rule 9 and 25 of C.G. Finance Account Code. This is his second application for grant of anticipatory bail, his first anticipatory bail application was dismissed on merits by this Court.

MCRC No.6699 of 2018 is first bail application which has been filed by applicants Subhash Chandra Barik and Swhet Kumar Yadav for grant of regular bail under Section 439 of the Cr.P.C. as they have been arrested on 27-08-2018 in connection with aforesaid crime number for the offence under Section 409, 467, 468, 471, 120B of the IPC and Section 13(1)D & 13(2) of Prevention of Corruption Act.

3. It is submitted by learned counsel for applicant G.P. Pandey (applicant in MCRC No.315 of 2018) that he has been falsely implicated in this case because of some misunderstanding. It is not denied by him that the amount has been appropriated in evidence regarding which annexures have been attached with the application. The circumstances have changed subsequent to the order passed by this Court in earlier application for grant of anticipatory bail as now the charge sheet has been filed, hence, for this reason, it appears that there is no requirement of custodial interrogation of this applicant. Hence, it is prayed that this applicant may be benefited with grant of anticipatory bail.

4. On behalf of learned counsel for applicants Subhash Chandra Barik and Swhet Kumar Yadav (applicants in MCRC No.6699 of 2018) it is submitted that both these applicants were daily wage employees and they have been made use of by main accused G.P. Pandey (applicant in MCRC No.315 of 2018) for commission of offences. In this case these applicants are not beneficiaries of the amount withdrawn in any manner. Both these applicants are in jail since 27-08-2018. Hence, it is prayed that these applicants may be granted regular

bail.

5. Learned counsel for the State/non-applicant opposes the applications submitting that the earlier application for grant of anticipatory bail to applicant G.P. Pandey has been rejected on merits and subsequent to the filing of the charge sheet, no such change has taken place on the basis of which the repeat application should be entertained by this Court. It is also submitted that bail application of applicants Subhash Chandra Barik and Swhet Kumar Yadav also does not deserve to be allowed by this Court. Hence, both the applications may be rejected.

6. Heard learned counsel for the parties and perused the case diary.

7. There is no need to go into merits of the case for applicant G.P. Pandey (applicant in MCRCA No.315 of 2018), but, regarding applicants Subhash Chandra Barik and Swhet Kumar Yadav (applicants in MCRC No.6699 of 2018) the facts of the case need appreciation. The allegation against these applicants is this that the amount of Rs.10,65,000/- was withdrawn by applicant G.P. Pandey (applicant in MCRCA No.315 of 2018) in capacity of Chief Municipal Officer on the basis of forged bills in the name of applicants Subhash Chandra Barik and Swhet Kumar Yadav (applicants in MCRC No.6699 of 2018) and the same amount has been misappropriated and embezzled.

8. Reliance placed by applicant G.P. Pandey (applicant in MCRCA No.315 of 2018) on the documents which are attached with the application have been considered in the earlier application filed by him for grant of anticipatory bail which has been decided in detail in MCRCA No.1107 of 2017 vide order dated 07-02-2018, hence, there is no reason to review the same order only for the reason that charge sheet has been filed. The circumstances do not change unless the finding in investigation discloses a different story, which is not a case here. Hence, after due consideration, I do not feel inclined to grant

anticipatory bail to applicant G.P. Pandey (applicant in MCRCA No.315 of 2018).

9. Accordingly, MCRCA No.315 of 2018 filed by applicant G.P. Pandey is rejected.

10. After due consideration on the application filed by applicants Subhash Chandra Barik and Swhet Kumar Yadav (applicants in MCRC No.6699 of 2018), I am of this view that as the investigation is now complete and no purpose would be served if they are kept in continuous detention till conclusion of the trial, hence, I feel inclined to grant regular bail to these applicants.

11. Consequently, MCRC No.6699 of 2018 filed by the applicants Subhash Chandra Barik and Swhet Kumar Yadav under Section 439 of the Cr.P.C. for grant of regular bail is hereby allowed. It is directed that these applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.

12. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge