

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No. 900 of 2017**

- Vijay Shankar Prasad Sinha S/o Late R.Y. Singh Aged About 60 Years R/o Flat No. A/8, Shiv Sadan Apartment, Nagaratoli, Ranchi (Jharkhand).

**---- Applicant**

**Versus**

- State Of Chhattisgarh Through SPE CBI Anti Corruption Beaur, Raipur Chhattisgarh.

**---- Respondent**

**And**

**MCRC No. 7182 Of 2017**

- Umesh Kumar Gupta S/o Shri Shankar Lal Gupta R/o C-88, Jawahar Nagar, Kusumunda Project Chhattisgarh and Permanent R/o Subhash Ward, Pipariya, District Hoshangabad ( M. P. )

**---- Applicant**

**Vs**

- State Of Chhattisgarh Through SPE CBI Anti Corruption Bureau, Raipur Chhattisgarh

**---- Respondent**

**And**

**MCRC No. 7873 Of 2017**

- Lt. Col. (Retd.) Vijendra Singh Yadav S/o Late Shri Ati Raj Singh Yadav Aged About 63 Years Occupation Director, M/s Dhruv Guard Pvt. Ltd., F-21, Manish Global Mall, Sector 22, Dwarka, Delhi 110 077, New Delhi.

**---- Applicant**

**Vs**

- State Of Chhattisgarh Through Central Bureau Of Investigation, Anti Corruption Bureau Branch, Raipur, District Raipur, Chhattisgarh.

**---- Respondent**

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For Applicants : Mr. Rajeev Shrivastava, Advocate with Mr. Somya Rai, Advocate.  
For Respondent-CBI : Mr. Kishore Bhaduri, Advocate with Mr. Pawan Kesharwani, Advocate.

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

**05/01/2018**

1. Since the above bail applications are similar in nature and arise out of the same chain of incidents, they are being heard and decided together by this common order.
2. Applicant Vijay Shankar Prasad Sinha has filed M.Cr.C(A) No.900/2017 seeking anticipatory bail as he apprehends his arrest in connection with Crime No.RC1242014A0006 registered at Police Station-SP, CBI, ACB for the offence punishable under Sections 420, 409, 120B, 109, 468, 467, 477A & 471 Indian Penal Code (for short 'IPC') read with Section 13(1)(d) & 13(2) of the Prevention of Corruption Act, 1988.
3. Applicant Vijendra Singh Yadav has filed M.Cr.C. No.7873/2017 seeking regular bail as he has been arrested in connection with Crime No.RC-1242014A0006 registered at PS-CBI/ACB, Raipur for the offence punishable under Sections 420, 409, 120B, 109, 468, 467, 477A & 471 IPC read with Section 13(1)(d) & 13 (2) of the Prevention of Corruption Act, 1988.
4. Applicant Umesh Kumar Gupta in M.Cr.C. No.7182/2017 is in custody. This is his first bail application filed under Section 439 of the Code of Criminal Procedure, for grant of regular bail as he has been arrested in connection with Crime No. RC-1242014A0006 registered at Police Station- SP,CBI, ACB, District – Bhilai(C.G.) for the offence punishable

under Sections 420, 409, 120B, 109, 468, 467, 477A & 471 IPC read with Sections 13 (1) (d) & 13 (2) of the Prevention of Corruption Act, 1988.

5. So far as applicant - Vijay Shankar Prasad Sinha is concerned, it is submitted by learned counsel for the applicant that applicant had been working as Area Personnel Manager, Korba area of SECL since 2010-11. As alleged, applicant failed in his duty to supervise and scrutinize the bills raised by M/s Dhruv Guards Pvt. Ltd. and allowed the passing of bills which would not have been allowed otherwise. Applicant had no responsibility to verify deployment of 90% of ex-servicemen for the security purpose, the main responsibility was on the Area Security Officer. There is no evidence that applicant has received any illegal gratification. The monetary loss that has been caused to SECL is the responsibility of Area Finance Manager, who had a major role to play. Further, M/s Dhruv Security Guards Pvt. Ltd. is also responsible for false certification. At the most, the applicant can be held responsible for dereliction of duty, which is not a criminal offence.

Reliance has been placed on the judgment delivered by High Court of Madras in N.V. Thayumanavar Vs. State, reported in 2015(2) MWN (Cr.) 117, in which it was held that criminal prosecution cannot be initiated for dereliction of duty. Reliance has also been placed on the Judgment of Delhi High Court in Court On Its Motion Vs. Central Bureau of Investigation in ILR (224) 1 Delhi 47, in which, it was held that *“power to arrest is altogether different than the need for arrest. Unless a person is required for custodial interrogation and investigation cannot be completed without his arrest, arrest may be necessary”*. In the case in hand, as the charge sheet has already

been filed, there is no requirement of any custodial interrogation of the applicant. Hence, applicant is entitled for grant of anticipatory bail.

6. So far as applicant Umesh Kumar Gupta is concerned, it is submitted that applicant had worked as Mining Engineer for a short period. He was discharging the duty of Area Security Manager. The case against the applicant is totally false. M/s Dhruv Guards Pvt Limited and the Area Finance Manager have the main responsibility, it is because of the role played by them, the loss occurred to SECL. It is submitted that two accused persons namely- Ashilsh S. Adhikari & Anil Kumar have been granted regular bail by this Court. Applicant had earlier applied for grant of anticipatory bail, however, his application was rejected by this Court and thereafter, he surrendered before the trial Court and filed the application for grant of regular bail, which has also been rejected. Hence, it is prayed that he may be released on regular bail.
7. As regards applicant Vijendra Singh Yadav, learned counsel submits that applicant is the Director of M/s Dhruv Guard Pvt. Ltd. Applicant has surrendered before the trial Court on 6.12.2017. Applicant has not committed any offence and had played no role on in raising bills for the Security Guard deployed in SECL Projects. Applicant has fully co-operated with the investigation. Applicant is a retired Army Personnel, the co-accused persons have already been granted regular bail in this case, hence, it is prayed that applicant is also be granted regular bail.
8. Learned counsel for the respondent-CBI submits that it is a case of white-collar corruption. According to the contract between M/s Dhruv Guards Pvt. Ltd and SECL, it was required to maintain a ratio of 90% ex-servicemen to be deployed as Security Guards in the areas. As per

the investigation, this ratio was never maintained by the security agency and in connivance with the officials of SECL, fake bills were raised showing deployment of 90% ex-servicemen as Security Guards and thereby claimed allowances at the rate of 24% which would have been otherwise lesser and because of this defalcation of Rs.31,36,099/- has taken place. All the applicants are equally responsible for misappropriation of funds of SECL. Hence, none of them is entitled for either anticipatory or regular bail.

9. Heard both the parties and perused the case diary.

10. According to the contract entered into between M/s Dhruv Guards Pvt. Ltd. and SECL, the agreement clause expressed that on deploying 90% ex-servicemen as Security Guard, out of the total guards deployed, the agency would be entitled for allowances at the rate of 24% and service charge at the rate of 14%. In case, the deployment of ex-servicemen was lesser, then the agency would not be entitled to charge allowances at the same rate.

11. CBI had investigated the case in detail and on verification of the record it was found that without deploying 90% ex-servicemen as Security Guards bills were raised by Dhruv Guards Agency erroneously certifying that 90% of ex-servicemen were deployed, which was connived by the Area Security Officer, Area Personnel Manager and Area Finance Manager deliberately for the purposes of wrongful gains. According to the operating instructions issued by the Chief of Security regarding contractual Security Services, it was the responsibility of applicant Umesh Kumar Gupta in MCRC No.7182/2017 to verify and check the deployment of 90% ex-servicemen as per norms laid down. Similarly, it was a responsibility of applicant Lt. Col. (Retd.) Virendra

Singh Yadav in MCRC No.7873/2017 to correctly certify the percentage of deployment of ex-servicemen which he failed to do. Likewise, applicant Vijay Shankar Prasad Sinha in the capacity of Area Personal Manager was responsible to cross-check the monthly attendance list and certify the correctness of claim, but he too failed to do so. Thus, the role played by applicants shows their ulterior motive and because of which after obtaining departmental sanction, charge-sheet has been filed against the applicants.

12. Considered the submissions made and the contents of the case diary.

After considering all the material on record, I am of this view that no extra-ordinary case is made out in favour of applicant Vijay Shankar Prasad Sinha. However, taking into consideration the fact that co-accused persons have already been granted regular bail by this Court, applicant Umesh Kumar Gupta and Vijendra Singh Yadav are also entitled to be released on regular bail on the ground of parity.

13. Accordingly, the bail application i.e. M.Cr.C.(A) No.900/2017, filed on behalf of applicant Vijay Shankar Prasad Sinha under Section 438 of Cr.P.C. is rejected.

14. Bail applications filed on behalf of applicants Umesh Kumar Gupta and Lt. Col. (Retd.) Vijendra Singh Yadav i.e. M.Cr.C. Nos.7182/17 & 7873/17 are allowed. It is directed that the applicants shall be released on bail on their furnishing a personal bond for a sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Sd/-

**(Rajendra Chandra Singh Samant)**  
Judge