

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1110 of 2017

1. Sanjay Kumar Sahu S/o Shri Sadhawa Lal Sahu, Aged About 35 Years Proprietor Sahu Stationary, Janpad Panchayat Complex Pussore District Raigarh Chhattisgarh R/o Gram Bade Haldi, Pussore District Raigarh Chhattisgarh., Chhattisgarh
2. Sobhanath Pradhan, S/o Late Shri Vats Pradhan, Aged About 40 Years Proprietor Sobhnath Tent House R/o Mandir Chowk Kolta Para, Nagar Panchayat Pussore, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh
3. Kartik Ram Shrivass S/o Shri Nehru Lal Shrivass Aged About 40 Years Proprietor Shrivass Photo Copiers Janpad Panchayat Complex Shop No. 2 Pussore District Raigarh Chhattisgarh.,..... R/o Aurda Police Station Pussore, District Raigarh Chhattisgarh., District : Raigarh, Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through District Magistrate, Raigarh Chhattisgarh, Chhattisgarh

---- Respondent

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MCRCA No. 1116 of 2017

1. Subhash Chand Barik S/o Shri Bihari Lal Barik, Aged About 67 Years Presently Posted As Assistant Grade I I I Contractual, Janpad Panchayat Pussore District Raigarh, Chhattisgarh, Chhattisgarh
2. Shwet Kumar Yadav S/o Shri Bodhram Yadav, Aged About 33 Years Presently Posted As Assistant Grade I I I Contractual, Gram Dumarmuda, Jalmala P.S. Pussore, District Raigarh, Chhattisgarh, District : Raigarh, Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through District Magistrate Raigarh, Chhattisgarh, Chhattisgarh

---- Respondent

Shri Mateen Siddiqui, counsel for the applicant/s.
Shri Dhiraj Wankhede, Govt. Advocate for the State.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

09/03/2018

Heard.

Both the applications are being decided by this common order as they arise out of the same crime number.

The applicants are apprehending their arrest in connection with Crime No.43/2014 registered by the Officer-In-Charge of the Anti Corruption Bureau, District – Raipur (CG) for alleged commission of offences under Section 409, 467, 468, 471 and 120-B of IPC and Section 13 (1) C and 13 (2) of Prevention of Corruption Act, 1988 and Rule 4 and 3 of Bhandar Kray Niyam, 2002 and Rule 9 and 25 of C.G. Finance Account Code.

2. The allegations against the present applicants, five in number and other accused, the then Chief Executive Officer are that fake bills were submitted in the name of arrangement of camps in the matter of distribution of pension to the beneficiaries. The allegations against the respective applicants is that no such arrangements for camp were held nor any payments were made. Thereafter, when a complaint was made, the Collector made an enquiry and offence has been registered against the applicants.

3. Learned counsel for the applicants submits that only on the basis of certain complaints, offence has been registered against the applicants. As far as three applicants i.e. the stationary shop owner, the tent house owner and the photocopier are concerned, their services were availed and the bills were submitted only for the services rendered and supply made and merely because there was irregularities in the mode of payment, these three applicants cannot be said to be involved in the commission of offence under the Prevention of Corruption Act or under Section 409 IPC as they are not public servants.

In so far as the other two applicants, i.e. two clerk staffs of Janpad Panchayat are concerned, it is submitted that these applicants had no role to play in the matter. They have been involved merely because instead of issuance of cheques for payment to three other accused, cheques were issued in the name of other two applicants for onward payment to three other accused. It is submitted that the photocopiers and the tent house owners have clearly stated on affidavit that they have received amount under the cheque. Therefore, in these circumstances, no

prima facie case is made out under Prevention of Corruption Act or IPC, merely because the two employees of the Janpad Panchayat are public servants.

4. On the other hand, learned State counsel opposes bail application and submits that the other co-accused, G.P. Pandey, the Chief Executive Officer had earlier applied for grant of anticipatory bail before this Court which has been rejected vide order dated 07/02/2018 in MCrCA No.1107/2017. The next submission is that in the name of organising camps for distribution of Nirashrit Pension to the beneficiaries within the jurisdiction of Janpad Panchayat, Pussour, District – Raigarh, a huge amount of public fund was siphoned and distributed. When complaints were made, enquiry was made, it is found that no such camp was arranged, no any tent owners were engaged, no services were availed from the photocopiers, funds were diverted, cheques were issued in the name of two co-accused employees and paid to other three co-accused i.e. stationery shop owner, photocopier and tent house owner. These all have been done in conspiracy with the then Chief Executive Officer, Shri G.P.Pandey, the other co-accused whose anticipatory bail has been rejected by this Court.

5. Taking into consideration the submission of learned counsel for the parties, nature of allegations, material on record and that anticipatory bail application of the other co-accused has already been rejected by this Court, I do not find it to be a fit case for grant of anticipatory bail. Accordingly, both the applications are rejected. However, in case, the applicants surrender and apply for grant of regular bail, their applications shall be considered by the Trial Court as early as possible.

Sd/-
(Manindra Mohan Shrivastava)
Judge