

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 300 of 2019

- Chandrika Prasad Patel, S/o Ramautar Patel, aged about 54 Years, R/o Bhathipara Baikunthpur, Police Station & Tahsil- Baikunthpur, District- Korea, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station- Chirmiri, District- Korea, Chhattisgarh.

---- Respondent

MCRCA No. 294 of 2019

- N.R.Holkar @ Navnath Ranba Holkar, S/o R. S. Holkar @ Ranba Sadu Holkar, aged about 58 Years, Ex- General Manager, Chirmiri Area S.E.C.L. at Present Working As General Manager, W.C.L. Nagpur (Maharashtra), R/o D-2/2, W. C. L. Colony, Saminari Hill, Nagpur, P. S. Gitti Khadan, District Nagpur, Maharashtra., District : Nagpur, Maharashtra

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station-Chirmiri, District Koriya, Chhattisgarh.,

---- Respondent

&

MCRCA No. 295 of 2019

- R.P. Thakur @ Ram Pravesh Thakur, S/o Ramlakhan Thakur, aged about 62 Years, Retired Director (Technical) S.E.C.L.) Bilaspur, Chhattisgarh. R/o Variyatu, District Ranchi (Jharkhand).

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station-Chirmiri, District-Koriya, Chhattisgarh.

---- Respondent

For Applicants : Mr. J.K. Gilda with Mr. Syed Majid Ali,
Advocates in M.Cr.C.(A) No.300/2019.
Mr. H.B. Agrawal, Sr. Adv. With Mr. Sudhir
Kumar Agrawal, Advocates in M.Cr.C.(A)
No.294/2019 & 295/2019.

For Respondent/State : Mr. I. Lakda, Dy. Govt. Advocate.

For Objector : Mr. Ratan Kumar Jain, Present in person.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

12/03/2019

1. Since the above bail applications arise out of the same crime number, they are being disposed of by this common order.
2. Applicants in above cases have preferred these applications for grant of anticipatory bail as they apprehend their arrest in connection with Crime No.237/2016 registered at Police Station-Chirmiri, District – Koriya(C.G.), for the offence punishable under Sections 218, 177, 120-B, 420, 464, 466, 468, 471, 201 & 34 of Indian Penal Code (for short 'IPC').
3. Mr. J.K. Gilda, counsel for applicant Chandrika Prasad Patel in MCRCA No.300/2019 submits that the applicant has been falsely implicated in this case. No case is made out against him. The complainant was nominated as a member of independent Monitoring Committee vide order dated 5.12.2012 passed in WP No.4250/2000 and thereafter the complainant filed a private complaint before the Court and after the order of this Court, the police has submitted inquiry report concluding that no offence has been committed. Even then the Court concerned has passed an order for registration of FIR against the applicant and other co-accused persons. Applicant Chandrika Prasad Patel is simply working as Draftsman in SECL, who has complied with the orders given to him by his superiors. Report submitted by the General Manager, SECL,

Chirmiri vide Annexure-A10 mentions the presence of the complainant as a member of the Monitoring Committee and that all the members of the committee expressed satisfaction regarding the work done. Therefore, the complaint filed by the complainant is malicious. It is submitted that learned Magistrate has ignored the ratio of law laid down in the matter of Priyanka Shrivastava & another vs. State of UP & others reported in 2015 STPC (Web) 243 SC, wherein the Hon'ble Supreme Court has held as under:-

“Regard being had to the aforesaid enunciation of law, it needs to be reiterated that the learned Magistrate has to remain vigilant with regard to the allegations made and the nature of allegations and not to issue directions without proper application of mind. He has also to bear in mind that sending the matter would be conducive to justice and then he may pass the requisite order. The present is a case where the accused persons are serving in high positions in the bank. We are absolutely conscious that the position does not matter, for nobody is above law. But, the learned Magistrate should take note of the allegations in entirety, the date of incident and whether any cognizable case is remotely made out. It is also to be noted that when a borrower of the financial institution covered under the [SARFAESI Act](#), invokes the jurisdiction under [Section 156\(3\)](#) Cr.P.C. and also there is a separate procedure under the Recovery of Debts due to Banks and Financial Institutions Act, 1993, an attitude of more care, caution and circumspection has to be adhered to.”

It is also submitted that in the case of Dr. Sunil Puri v. State of Chhattisgarh reported in 2006 CRI.L.J. 2866, the Single Bench of this Court has observed that the complainant or the first informant has no right of audience in a petition filed u/s 438 Cr.P.C., therefore, the objection, if any, of the complainant is liable to be ignored. Hence, it is prayed that anticipatory bail be granted to be applicant.

4. Learned counsel appearing on behalf of applicants N.R. Holkar in MCRCA No.294/2019 & R.P. Thakur in MCRCA No.295/2019 submitted that at the relevant point of time applicant N.R. Holkar was working as General Manager and applicant R.P. Thakur was working as Director Technical in SECL, Chirmiri Area. Allegation against both these applicants are similar to that of Chandrika Prasad Patel. The applicants were earlier arrested and released on personal bond, but later on, the police has sought permission of the Court for arresting the applicants, therefore, this apprehension. It is a case of some irregularities committed in raising of barbed wire fencing. On the basis of the entire material

there does not appear to be any criminality on the part of the applicants, therefore, it is prayed all the applicants may be granted anticipatory bail.

5. Learned State counsel opposes the bail applications and the submissions made in this respect. It is submitted that the lands were transferred to SECL with the condition that fencing of 6 feet high will be raised around the land proposed for mining of coal. The work order issued was not for raising of fencing of height upto 6 feet. Apart from that, a false report was given certifying that 75% work has been done, whereas infact only 25% work was completed. Therefore, applicants are not entitled for grant of anticipatory bail.
6. The objector, who is personally present, has adopted the arguments advanced by the counsel for State. In addition, he submits that according to the terms of transfer of lands for open cast mining, it was a clear stipulation that the fence will be raised within one month from the date of transfer. The transfer was made on 27.4.2013. A report was called on 22.8.2013 which was replied on 29.8.2013 and 6.9.2013. It was reported that 75 % of the work was complete, which was a false report as the fencing was raised upto the height of only 4 ft against the total height of 6 ft and even it was not complete upto 75% as it was reported. Thus, on account of act of the applicants, a loss of Rs.7,86,000/- has been occasioned to the SECL. The applicants have not followed the norms of environmental laws and they have not only failed to perform their duties but also have made false claim regarding progress of work. In these circumstances, none of the applicants is entitled for grant of bail.
7. Heard both the parties and perused the case diary.
8. According to FIR lodged, the land was transferred by the State Government to the SECL, Chirmiri for the open cast mining with the condition that a fencing of barbed wire upto the height 6 ft will be raised within a period of one month from the date of transfer of land. The said work of fencing has not been completed till date and it was reported by the applicants falsely that they had completed 75% of the work.
9. It is clear that there are lapses in the completion of the work to be done in

accordance with the terms and conditions of the transfer of land for mining purposes. It may be so that because of delay in executing the work and for other reasons, the loss may have been caused to SECL. In the investigation made so far, there is no such evidence that any amount withdrawn for the work to be done has been misappropriated by any person. It appears that applicants have acted in negligence which has to be first dealt with departmentally to find out the criminal involvement of the applicants.

10. After considering the entire material present in the case diary and the documents filed by the applicants and also by the objector side, I am of this opinion that present is a fit case where the applicants should be granted anticipatory bail.

11. Accordingly, the anticipatory bail applications of applicants are allowed and it is directed that in the event of their arrest in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on their furnishing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions :-

- (i) that the applicants shall make herself 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 her by the said Court till disposal of the trial.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha