

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 280 of 2019

1. Hemant Kumar Yadav S/o Late Shri Sita Ram Yadav, Aged About 38 Years, R/o House No.13, Yadav Para, Village and Post Office Ghutku, Block-Takhatpur, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- Special Police Establishment (SPE), Central Bureau of Investigation (C.B.I.), Anti Corruption Branch (ACB), Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Non-applicant

MCRCA No. 407 of 2019

1. Jugal Kishore Kaushik S/o Late Bhuklu Ram Kaushik, Aged About 55 Years, R/o Village- Podi, Police Station- Takhatpur, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- Special Police Establishment, Central Bureau of Investigation, ACB Chhattisgarh, Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Rajeev Shrivastava, Advocate (in MCRCA No.280/2019).
Shri Krishna Tandon and Shri Basant Dewangan, Advocates (in MCRCA No.407/2019).
For Non-applicant/C.B.I. – Shri B. Gopa Kumar, ASG.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

27-03-2019

1. As these two MCRCA arise out of the same crime number, i.e. Crime No.RC1242017S0001 of 2017 (Criminal Case No.9274/2018), registered at Police Station - C.B.I., A.C.B., Raipur, Chhattisgarh for the offence under Section 120-B, 406, 409, 420 & 477-A of the IPC, they are being decided by this common order.
2. These applications have been filed by the applicants for grant of anticipatory bail as they are apprehending their arrest in connection with aforesaid crime number and offence.
3. It is submitted by learned counsel for the applicant Hemant Kumar Yadav (applicant in MCRCA No.280/2019) that this applicant was posted as

Data Entry Operator from 14-09-2007 to 30-09-2013. The duration during which the defalcation has been pointed out is of the year 2012 and 2013. This applicant was never entrusted with the work of making deposit or withdrawal from the savings bank account of the society. His name is also not reflected in the FIR lodged, but, at the time of filing of charge sheet he has been arrayed as accused without any basis. Therefore, it is prayed that this applicant may be benefited with grant of anticipatory bail.

4. It is submitted on behalf of applicant Jugal Kishore Kaushik (applicant in MCRCA No.407/2019) that the name of this applicant was never present at the time of initiation of the investigation in the case, however, without any basis he has been arrayed as accused at the time of filing of charge sheet. The statement of witnesses clearly show that he has not been a party to commission of the offence of embezzlement. Therefore, it is prayed that this applicant may be benefited with grant of anticipatory bail.

5. Learned counsel for non-applicant/C.B.I. opposes the applications submitting that the main allegation is against both these applicants about making embezzlement of Rs.7,67,121/- and there is evidence to show that both these applicants were involved in the offence. Therefore, they are not entitled for grant of anticipatory bail.

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

7. On the basis of the order passed by this Court in a batch of writ petitions filed by various members and investors in Krishak Sewa Sahakari Samiti Ghutku, District Bilaspur, the C.B.I. has investigated this case. The FIR was registered against Nand Kumar Yadav, Incharg Society Manager and 7 others on 08-01-2017. It was found in the investigation that because of various totaling mistakes in the saving bank registers and forwarding mistakes in transferring the total to Cash Book/Day Book of the society, embezzlement of Rs.11,19,354/- was found to have taken place, for which all the accused persons were held responsible.

8. Considered on the entire material present in the case diary. As it appears that the investigation in this case has already been completed and the charge sheet has been filed. The respondent counsel has not pointed out regarding any requirement of these applicants for custodial interrogation or their arrest and detention, therefore, the only thing which is left is to appear before the trial Court and face the trial, hence, for these reasons, I fee inclined to allow both these applications.

9. Consequently, both these anticipatory bail applications are allowed. It is directed that in the event of arrest of these applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. These applicants shall also abide by the following conditions :

- (i) that they shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that they 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 they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge