

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 418 of 2019**

1. Srinivas Phanishekar, S/o - Apparao Mudda, Aged about - 38 years, Presently posted as Company Secretary.
2. Ashu Handa, S/o - Satish Handa, Aged about - 36 years, Presently posted as Finance Head.
3. Shishir Kalkonde, S/o - Shri Shrikant Gangadhar Kalkonde, Aged about - 41 years Presently posted as Coal Management.
4. Bishwajeet Bhasker, S/o - Radhakrishana Prasad, Aged about - 36 years Presently posted as Legal Manager,

All the above are employees of: KSK Mahanadi Power Co. Ltd., Village Nariyara Tahsil - Akaltara, District - Janjgir Champa (C.G.)

---- Applicants**Versus**

State of Chhattisgarh Through Station House Officer, Police Station Mulmula, District - Janjgir (C.G.)

---- Respondent**MCRCA No. 420 of 2019**

1. Abhay Mahadev Nalwade, S/o - Mahadev Hari Nalwade, Aged about - 69 years, R/o - Oudh, District - Pune, (M.H.)
2. Ayyappa Kolluri Sastry, S/o - Shri Venketeshwar Rao Kolluri, Aged about - 59 years, R/o - Venglarao Nagar, Hyderabad, (TEL)

---- Applicants**Versus**

State of Chhattisgarh Through - Police Station House Officer, Police Station Mulmula, District - Janjgir (C.G.)

---- Respondent**And****MCRCA No. 421 of 2019**

1. Shankar Chidambaram, S/o - Panchpakesan Chidmbaram, Aged about - 57 years,
2. Alankrita Soni, D/o - Shri Rajendra Kumar, Aged about - 35 years,
3. Kishore Sethuraman, S/o -Suhramaniyam, Aged about - 57 years,

All the above Directors: KSK Mahanadi Power Co. Ltd.,
Village Nariyara, Tahsil - Akaltara, District -Janjgir Champa
(C.G.)

---- Applicants

Versus

State of Chhattisgarh Through - The Station House Officer,
Police Station Mulmula, District - Janjgir Champa (C.G.)

---- Respondent

For applicants	:	Mr. Ashish Shrivastava, Advocate
For State/respondent	:	Mr. Ravish Verma, Govt. Advocate
For objectors	:	Mr. Abhishek Sinha & Ankit Singhal, Advocates

Hon'ble Shri Justice Ram Prasanna Sharma

Order On Board

25.06.2019

1. As all the aforesaid bail applications arise out of common incident, they are heard analogously and are being disposed of by this common order.
2. The applicants have preferred these applications under Section 438 of code of Criminal Procedure, 1973 apprehending their arrest in connection with Crime No. 32/2019 registered at Police Station- Mulmula, District- Janjgir Champa (C.G.) for commission of offence punishable under Sections 406, 420 read with Sections 34 & 120 B of IPC, 1860.
3. As per version of the prosecution, the complainant- M/s Hind Energy & Coal Benefication India Limited, Bilaspur had entered into an agreement with applicants' company-

M/s K. S. K. Mahanadi Power Company Limited for supply of washed coal as per the work order/ purchased order issued from time to time by the applicants' company during the period from 2013 to 2017 and due to some other disputes, it is alleged that amount of Rs. 18 crores is due to be paid by the applicants company.

4. The matter was brought before the National Company Law Tribunal (NCLT), Hyderabad Bench and the parties were agreed to settle their dispute for sum of Rs. 11,35,55,677/- and the amount was to be paid in 11 installments starting from 25th August, 2018. The installment was not paid to the complainant that is why the complaint was filed.
5. Learned counsel for the applicants submits that all the 11 installments have been cleared by them as per agreement, as mentioned in the agreement, therefore, they should be enlarged on anticipatory bail.
6. On the other hand, learned State counsel opposes the application for grant of bail and submits that applicants failed to comply with the agreement therefore, their act is not bona fide and they do not deserve grant of anticipatory Bail.
7. Looking to the fact that amount which is mentioned in the agreement is paid, the applicants deserve to be released on anticipatory bail. Though, amount which was originally due before agreement in the present case is not paid, this order may not come in the way of recovery, if any.

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

- (i) they shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) 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 them from disclosing such facts to the Court or any police officer;
- (iii) that they shall not leave India without the previous permission of the Court.
- (iv) that they shall not act in any manner which will be prejudicial to fair and expeditious trial; and
- (v) that in case of change of address they will inform new address to investigating agency.

Certified copy as per rules.

Sd/-

(Ram Prasanna Sharma)

JUDGE