

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 445 of 2019

1. Shashikala Yadav, W/o. Shri Thakur Ram Yadav, Aged About 37 Years
2. Chandan Das, S/o. Shri Gorelal Manikpuri, Aged About 27 Years,
Boh R/o. Village Jarve, Police Station Balouda, District - Janjgir -
Champa Chhattisgarh.

----Applicants

Versus

State Of Chhattisgarh, Through : Police Station - Kotwali, District - Korba
Chhattisgarh.

---- Respondent

For Applicants : Mr. Devershi Thakur, Advocate
For Respondent/State : Mr. I. Lakra, Dy.G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

01/04/2019

1. Apprehending arrest in connection with Crime No.425/2018, registered at Police Station – Kotwali, Korba, District – Korba (C.G.) for offence punishable under Section 420/34 of the Indian Penal Code, the applicants have preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicants that the applicants have been falsely implicated in this case. No case is made out against the applicants on the basis of the material present on record. The applicant No.1 is the President of Bhuvisthpit Jan Kalyan Samiti and the applicant No.2 is the

Secretary of that Samiti. These applicants along with co-accused Gorelal Manikpuri had bonafidely approached the complainant to invest money in the tender work that has been allotted by C.G. State Power Generation Company. The amount so invested by the complainant has been deposited with C.G. State Power Generation Company. Therefore, these applicants have not taken any benefits of that deposits. The allegation made by the complainant regarding breach of contract is different matter, which does not amount to commission of any offence. Similarly placed one co-accused Gorelal Manikpuri has been granted anticipatory bail by this Court in M.Cr.C.(A) No.1741/2018 vide order dated 21.01.2019. Therefore, it is prayed that the applicants may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that these applicants have induced the complainant to make investment in tender, which did not materialize, therefore, the offence of cheating has been committed.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
5. According to the FIR lodged by the complainant Jai Soni alleging that these applicants and one co-accused Gorelal Manikpuri approached him stating that a job has to be allotted by C.G. State Power Generation Company, for making deposit of earnest money they do not have the money, therefore on the inducement given by the applicants, the complainant withdrew the amount of Rs.2,05,000/- from his wife's bank account and deposited in the account of Samiti, which was withdrawn by these applicants and deposited with C.G. State

Power Generation Company. An agreement was separately executed between the applicants and the complainant that work order that shall be received against that deposit shall be given for execution to the complainant, but the same condition in the agreement has not been honored by these applicants.

6. Considered the submissions made and the contents of the case diary. Considered on the entire material present in the case diary and the nature of the case against the applicants, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.
7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
8. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on 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. The applicants shall also abide by the following conditions :
 - (i) that the applicants shall make themselves 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 them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram