

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 684 of 2019

1. Kumari Renu Mishra, D/o Late Shri Surendra Mishra Aged About 34 Years R/o Krishna Nagar, Ward No. 12, Kota, Police Station Saraswati Nagar, Raipur, Tahsil & District Raipur Chhattisgarh.
2. Shiv Santosh Mishra, S/o Late Shri Surendra Mishra, Aged About 30 Years, R/o Krishna Nagar, Ward No. 12, Kota, Police Station-Saraswati Nagar, Raipur, Tahsil & District-Raipur, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Saraswati Nagar, Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Abhishek Pandey with Ms. Aarti Manjhi, Advocates.
For Respondent	:	Mr. Roshan Dubey, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

29/08/2019

1. The applicants have preferred this bail application under Section 438 of Cr.P.C. apprehending their arrest in connection with Crime No.214/2018 registered at Police Station- Saraswati Nagar, District – Raipur(C.G.), for the offence punishable under Sections 3, 7 of Essential Commodities Act, 1955.
2. Learned counsel for applicant submits that applicants are innocent and have been falsely implicated in this case. Applicant No.1 was elected as President of the society 'Priyadarshani Prathmik Sahkari Upbhokta Bhandar, Kota, Raipur in the year 2009 and her term was completed in the year 2014. Subsequent to that, no election has taken place, therefore, she was not the Chairman of Society when the stock

inspection was done in the year 2018. Further, it is submitted that the society has been brought under liquidation as per provisions of **sub-section 60 of C.G. Co-operative Societies Act, 1960**. The Liquidator has been appointed by order dated 8.10.2015 under the provisions of Section 70 of Act, 1960. Therefore, the applicant No.1 had nothing to do with the business of the said Priyadarshani Prathmik Sahkari Upbhokta Bhandar. On behalf of applicant No.2, it is submitted that he has not committed any offence and infact the supplies that are shown to have been made to the said society were not supplied at all, therefore, the shortage was found at the time of inspection. Hence, it is prayed that both the applicants may be granted anticipatory bail.

3. Learned State counsel opposes bail application and submissions made in this respect. It is submitted that according to the inquiry made by Food Department and inspection made on 1.10.2018, huge shortage of rice & wheat was found in the stock, which were shown to be present in the account books, and for which both the applicants are equally responsible, therefore, application of both applicants be rejected.
4. Heard both the parties and perused the case diary.
5. According to prosecution case, an inspection was made on 1.10.2018 by the Food Department in the Priyadarshani Prathmik Sahkari Upbhokta Bhandar, Kota. The stock of rice was found short by 3331.87 quintals, whereas there was shortage of 263 quintals in the stock of wheat. Inquiry was made and according to the report, these defalcations have been made during the period from 1.1.2016 to till the date of inspection. Hence, this case.
6. As there is evidence present in the case diary that applicant No.2 was

incharge of the said society when the inspection was made and he was not able to give any cogent explanation with respect to the shortage that was found at the time of inspection, therefore, I am not inclined to allow bail application of applicant No.2. However, the case of applicant No.1 appears to be on different footing because the society was under the liquidation from the year 2015 and the Liquidator was the in-charge of the said society since that time. Therefore, for these reasons, I feel inclined to allow bail application of applicant No.1.

7. Accordingly, anticipatory bail application of applicant No.1 is allowed and it is directed that in the event of arrest of applicant No.1 in connection with the aforesaid offence, she shall be released on bail by the officer arresting her on her executing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. Applicant No.1 shall also abide by the following conditions :

- (i) that applicant No.1 shall make herself available for interrogation before the investigating officer as and when required;
- (ii) that applicant No.1 shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade them/their from disclosing such facts to the Court or to any police officer;
- (iii) that applicant No.1 shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant No.1 shall appear before the trial Court on each and every date given to them by the said Court till disposal

of the trial.

8. However, the bail application of applicant No.2 is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha