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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 750 of 2019

1. K. B. Prasanna Kumar S/o Late K.K. Bhaskaran, Aged About 57 Years, Occupation Service, Presently Posted as Deputy General Manager (Personal)/ General Service Department, Western Coal Field Limited, Civil Lines Nagpur, R/o Devika Harsh Kalpana Nagar, Nagpur, Maharashtra., District : Nagpur, Maharashtra

---- Applicant

Versus

- Central Bureau of Investigation Through Its Station House Officer P.S.S.P.K. CBI, ACB, Bhilai District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Non-applicant

MCRCA No. 797 of 2019

1. P.V. Ramchandran S/o Late P Vasudevan, Aged About 57 Years, Presently working as Chief Manager (Security), Mahanadi Coalfields Limited (MCL), Sambalpur, Odisha, R/o MTI, Anand Vihar, Burla, Odisha., Orissa

---- Applicant

Versus

- Central Bureau Of Investigation (CBI) Central Bureau of Investigation (CBI), Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

For Applicants – Shri Rajeev Shrivastava and Shri Malay Shrivastava, Advocates.

For Non-applicant/CBI– Shri B.Gopa Kumar, A.S.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

17-05-2019

1. As these two MCRCA arise out of the same crime number, i.e. Crime No.RC1242014A0004, registered at Special Police Station SPE, CBI, ACB, Bhilai, District Durg, Chhattisgarh for the offence under Section 420, 120B of the IPC read with Section 13(1)(d) & 13(2) of Prevention of Corruption Act, 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 applicants that the applicants have been falsely implicated in this case. Applicant K. B. Prasanna Kumar (appellant in MCRCA No.750/2019) was working as Area Personnel Manager and applicant P.V. Ramchandran (applicant in MCRCA No.797/2019) is the Chief Security Officer of the same SECL. There had been an agreement between the SECL and M/s. Dhruv Guard Pvt. Limited for deployment of security persons in which it was agreed that the company shall deploy 90% ex-servicemen and 10% civilians in security duty, against which he was to have entitlement for drawing additional charges from the SECL. It is submitted that these applicants had no personal control or supervision over the percent of deployment of ex-servicemen, they simply believed in the reports received from the field level officers and certified them, thus, clearing them for payment of remuneration, which cannot be said as false certification.

M/s. Dhruv Guard Pvt. Limited has approached this Court in Cr.M.P. No.522 of 2018 in which by order dated 23-03-2018 this Court has been pleased to pass the order directing that no coercive steps shall be taken against the petitioner M/s. Dhruv Guard Pvt. Ltd. These applicants are better placed. Apart from that, the investigation has been completed in this case and charge sheet has been filed, therefore, there is no need of any custodial interrogation of these applicants. Hence, it is prayed that the applications may be allowed.

4. Learned counsel for the CBI/non-applicant opposes the applications and submits that both the applicants have direct responsibility for verifying the percentage of the deployment of ex-servicemen and because of their deliberate negligence or connivance, despite lesser percentage of ex-servicemen being deployed for security duties, the extended charges were paid to M/s. Dhruv Guard Pvt. Ltd. Applicant P.V. Ramchandran who was the Chief Security Officer and had direct responsibility to make verification of the

said deployment and applicant K. B. Prasanna Kumar being Area Personnel Manager had also similar responsibility to verify the deployment in the matter of payment of extra charges to Dhruv Guard Pvt. Ltd., in which both of them have failed and their failure appears to be deliberate. Therefore, both these applicants are not entitled for grant of anticipatory bail.

5. In reply learned counsel for the applicants in both the applications submits that Chief Security Officer is relatively high post and thus he was not supposed to do counting which was the responsibility of the officers below him. It is also submitted that at the most it may be a case of dereliction of duties on the part of the applicants.

Reliance has been placed by learned counsel for the applicants on order passed by the Madhya Pradesh High Court in the matter of **Nirbhay Singh and another Vs. State of Madhya Pradesh**, 1995 M.P.L.J. 297 and it is prayed that the applicants may be benefited with grant of anticipatory bail.

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

7. The case against the applicants is this, that they were in responsible positions in the SECL. According to the agreement between the SECL and M/s. Dhruv Guard Pvt. Ltd. there was a condition that in case 90% ex-servicemen are deployed in security services then M/s. Dhruv Guard Pvt. Ltd. shall have the entitlement of 24% coal field allowance and 14% of service charge. It is alleged that the deployment of ex-servicemen was below 90% and the SECL officers and M/s. Dhruv Guard Pvt. Ltd. collaborated to certify that the deployment was complete and above more than 90% and thereafter caused release of payment of additional charges for M/s. Dhruv Guard Pvt. Ltd. which has resulted to loss to the SECL. On this ground it is believed that these applicants have also benefited from this collaboration. Hence, this case.

8. Considered on the entire material present in the case diary. The question raised that the applicants may be guilty of dereliction of duty is a

defence they can raise in the trial and which is a probable defence, also for the reason that now the investigation of the case has been completed and there is no any requirement of custodial interrogation of these applicants, therefore, I feel inclined to allow both these applications.

9. Accordingly, both the 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