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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 805 of 2019**

Raj Kishore Palia, S/o Fattulal Palia, aged about 57 years, R/o New Adarsh Nagar, Ward No. 53, Working Address/ sub-engineer, Municipal Corporation, Durg, Tehsil & District Durg, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through the Station House Officer, police station Durg, Chhattisgarh.

---- Respondent**And****M.Cr.C.(A) No. 830 Of 2019**

Vinod Manjhi, son of Shri Goverdhan Manjhi, aged about 29 years, permanent resident of 249(7) Bathena Ward No. 6, District Dhamtari, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through the Station House Officer, police station Durg, Chhattisgarh.

---- Respondent

For the Applicants	:	Ms. Pragya Pandey and Shri Prateek Sharma, Advocates.
For the Respondent/State	:	Shri Arun Shukla, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****17.06.2019**

Heard.

- Both these applications are being decided by this common order as they arise from the same incident. These are the first bail applications under Section 438 of Cr.P.C. filed by the applicants for grant of anticipatory bail, who are apprehending arrest in connection with Crime No.565 of 2018 registered at Police Station – Durg, Chhattisgarh for the offence punishable

under Sections 406, 409, 420, 467, 468, 471 and Section 34 of the Indian Penal Code.

2. Learned counsel for the applicants submits that applicants – Raj Kishore Palia and Vinod Manjhi are Sub-Engineers of the Municipal Corporation, Durg. They have in performance of their duties verified the toilets constructed under the Clean India Movement by the Self Help Groups. These applicants were not engaged in the construction of the said toilets and they have simply verified the toilets pointed out to them in that village. The allegation that some earlier constructed toilets were also recounted and a repeat completion certificate was given is an erroneous statement, because neither the applicants were aware of any previous construction nor the persons who surveyed on the earlier construction. Similarly placed co-accused persons have been granted regular as well as anticipatory bail by the Court below. The actual beneficiary of the amount withdrawn from the funds had been the Self Help Groups who are already benefited with grant of anticipatory bail. Hence, it is prayed that the applicants in both the cases are entitled for grant of anticipatory bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that there is evidence to show that these applicants have very clearly participated in the commission of offence and have taken benefit of the funds withdrawn in the same transaction. Hence, it is prayed that these applicants are not entitled for grant of bail.

4. Heard counsel for both the parties and perused the case diary.

5. According to the prosecution case, the applicants in both the cases verified the toilets constructed under the Clean India Movement and gave a false completion report, with regard to some toilets which were already earlier constructed, their respective payments has been withdrawn and disbursed to the concerned Self Help Groups. Hence, this case.

6. Considered the material present in the case-diary. It appears that the direct beneficiary of the amount of these cases are the Self Help Groups. Both the applicants are public servants and also there is no such material to show that they had been the persons who had certified earlier constructed toilets and also they were not the persons who were engaged in the construction of the said toilets. Hence, for these reasons, I feel inclined to grant anticipatory bail to all the applicants in both the cases.

7. Accordingly, the bail applications filed by the applicants in both the cases under Section 438 of the Cr.P.C. are allowed.

8. It is directed that in the event of arrest of the applicants in both the cases 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. They 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 them 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.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge