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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 934 of 2019**

Chowa Ram Pisda S/o Late Baldu Ram Aged About 58 Years Executive Engineer, North Bastar Division -2, Jagdalpr, Chhattisgarh, R/o Pwd Resident Colony, Pathraguda, Jagdalpur, Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Anti Corruption Bureau, Jagdalpur, Chhattisgarh., District : Bastar(Jagdalpur), Chhattisgarh.

---- Respondent**And****M.Cr.C.(A) No. 1022 Of 2019**

Gyanesh Kumar Taram S/o Late Sonsingh Taram Aged About 48 Years R/o Village Petoli Police Station Kanker Tahsil And District North Bastar Kanker Chhattisgarh., District : Kanker, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through The Anti Corruption Burreau Raipur Unit Jagdalpur, District Bastar Chhattisagr., District : Bastar(Jagdalpur), Chhattisgarh.

---- Respondent

For the Applicants : Shri Maneesh Sharma and Shri P.K. Tulsyan, Advocates.

For the Respondent/State : Shri Devendra Pratap Singh, Dy. A.G.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****11.07.2019**

Heard.

- Both these applications are being decided by this common order as they arise from the similar 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.34 of 2012

registered at Police Station – Anti Corruption Bureau, Jagdalpur, District Jagdalpur, for the offence punishable under Sections 13(1)(D) and 13(2) of the Prevention of Corruption Act, 1988 and Sections 409, 420, 467, 468, 471 and 120B of the Indian Penal Code.

2. Learned counsel for the applicants submit that the applicants have been falsely implicated in this case. No offence has been committed by the applicants in both the cases. It had been simply a financial irregularity committed by the applicants because of which, the Departmental Enquiry was conducted against these applicants, in that it was found to be mere irregularity and dereliction in the part of their duty and they were censured for the same. The FIR that has been lodged by the District Collector is without substance. 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 on 25.1.2012, the bill for payment to the contractor was cleared was for Rs.3,42,37,968/- whereas, the actual work done on the spot was according to the measurement was worth Rs.58,31,210/- therefore, the clearance was given for excess payment of Rs.2,84,06,758/- which is a malicious act on the part of the applicants. Hence, no case is made out for grant of anticipatory bail to the applicants.

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

5. Applicant – Chowa Ram Pisda in M.Cr.C.(A) No.934 of 2019 was Executive Engineer, posted at the time the incident has taken place and similarly, applicant – Gyanesh Kumar Taram in M.Cr.C.(A) No. 1022 of 2019 was Assistant Engineer in the same place. A bill for payment to the contractor of Rs.3,42,37,968/- was cleared on 25.1.2012. Collector of the District ordered an enquiry in which it was revealed that the bill was cleared for excess payment of Rs.2,84,06,758/-.

6. On perusal of the case-diary and the departmental enquiry report filed alongwith the application, it is found that soon after the clearance of bill on 25.1.2012, before its payment the bill was withdrawn and recalled on 4.2.2012 by the applicants therefore, no amount has been paid on the basis of the bill so cleared which has caused no loss to the Government. The enquiry that has been initiated by the Collector of late on 9.2.2012 and report was submitted on 23.2.2012 alleging defalcation by these applicants, therefore, on these circumstances, I feel inclined to grant anticipatory bail to 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