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HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 5090 of 2019

1. Smt. Shanti Bai, W/o. Shri Shiv Prasad, Aged About 35 Years,
 2. Smt. Mohani Singh, W/o. Shri Sagar Singh, Aged About 32 Years,
- Both are R/o. Village- Premnagar, Pathalgaon, Thana - Pathalgaon,
District- Jashpur, Chhattisgarh.

---- Applicants

Versus

State of Chhattisgarh, Through : Police Station- Pathalgaon, District- Jashpur,
Chhattisgarh.

---- Respondent

M.CR.C. No. 5471 of 2019

Shyam Narayan Gupta, S/o. Shri Sheetal Prasad Gupta, Aged About 50
Years, Caste - Sodhi, Occupation Contractor, R/o. Village Pathalgaon, Police
Station and Tehsil Pathalgaon District Jashpur Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh, Through : Police Station- Pathalgaon, District- Jashpur,
Chhattisgarh.

---- Respondent

M.CR.C.(A) No. 1410 of 2019

Amit Kumar Gupta, S/o. Ravindra Prasad, Aged About 34 Years, Permanent
Address Post Saltua Police Station Chainpur Tehsil Chainpur District Palamu
Jharkhand and Present Address I D B I Bank Main Road, Ranchi, Jharkhand.

---- Applicant

Versus

State Of Chhattisgarh, Through : Police Station- Pathalgaon, District-
Jashpur, Chhattisgarh.

---- Respondent

For Applicants (in M.Cr.C.No.5090/19) : Mr. Akhilesh Kumar, Advocate
For Applicant (in M.Cr.C.No.5471/19) : Mr. Surfaraj Khan, Mr. Rishi Sahu &
Mr. Kaushal Yadav, Advocates
For Applicant (in M.Cr.C.(A)No.1410/19): Dr. N.K. Shukla, Sr. Advocate with
Mr. Arijit Tiwari, Advocate
For Respondent/State : Mr. Adil Minhaj, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

11/09/2019

1. Since the above regular bail applications and anticipatory bail application arise out of the same crime number, they are being heard and disposed of by this common order.
2. The applicant – in MCRC(A) No.1410 of 2019 has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.262/2018 registered at Police Station- Pathalgaon, District – Jashpur (C.G.), for the offence punishable under Sections 120-B, 420, 467, 468 and 471 of the Indian Penal Code.
3. The bail applications of applicants- in M.Cr.C. No.5090 of 2019 and in M.Cr.C. No. 5471 of 2019 are the first bail applications filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to them as they have been arrested in connection with Crime No.262/2018, registered at Police- Station Pathalgaon, District– Jashpur (C.G.) for the offence punishable under Sections 120-B, 420, 467, 468, 471 and 419, 34 of the Indian Penal Code.

4. Learned counsel appearing on behalf of the applicants (in M.Cr.C. No. 5090 of 2019) submits that the applicant No.1 Shanti Bai is one of the decedent of Buchu and she is entitled for receiving the compensation, which she has received lawfully. The allegation of impersonation against the applicant – No.2 Mohani Singh, W/o. Sagar Singh, who has been made accused in this case is totally false and baseless as the person named Mohani Singh, who has impersonated as Santoshi Bai was different. These applicants are in jail since 01.06.2019. Therefore, it is prayed that these applicants may be released on bail.
5. Learned counsel appearing on behalf of the applicant (in M.Cr.C. No. 5471 of 2019) submits that date of incident is alleged to be on 05.09.2017 and FIR has been lodged on 09.10.2018. The allegation against this applicant are totally false and baseless. The amount this applicant has received from Ramanuj Sidar was for the purpose of construction of house as the applicant is a contractor. As the house could not be constructed, therefore, this applicant has refunded the amount to Ramanuj Sidar. The case has been enquired by the SDO, Pathalgaon and Revenue Inspector has given direction to the police for lodging FIR for which he has no such authorization, which can be ordered only by Judicial Magistrate First Class. Charge-sheet has been filed after completion of investigation and therefore, it is prayed that this applicant may be enlarged on regular bail.
6. Learned counsel appearing on behalf of the applicant (in M.Cr.C.(A) No. 1410 of 2019) submits that this applicant was Branch Manager of IDBI Bank in which the joint account of Shanti, Santoshi and others were opened and the amount of acquisition compensation was

deposited. Thereafter, the account holders opened separate accounts in which the amounts were transferred from the joint account. This applicant has not played any role in the commission of offence as it is alleged. Being the Branch Manager, he was duty bound to honour the cheques and make the deposit or withdrawal. Therefore, he has no criminal liability. Therefore, it is prayed that this applicant be granted anticipatory bail.

7. Learned counsel for the respondent/State opposes the applications and submissions made in this respect. It is submitted that Sub-Divisional Officer has enquired into the matter and found that Santoshi Bai, who was not available, therefore, she was impersonated by Mohani Bai for the purpose of opening bank accounts, in which the whole compensation amount deposited in the joint account which was then siphoned to an other accounts with the help of the applicant Shyam Narayan Gupta and in connivance with the applicant Amit Kumar Gupta, the Branch Manager. Hence, the applicants are not entitled for grant of regular bail or anticipatory bail.
8. I have heard the learned counsel for both the parties and perused the case diary.
9. According to the prosecution case, Ramanuj Sidar gave a complaint to the Collector, Jashpur, which was enquired by the SDO, Pathalgaon and on that basis complainant Basiya Ram Rathiya, Revenue Inspector, Pathalgaon sent a memo to the Police Station – Pathalgaon for lodging FIR. It is stated in the FIR that legal representatives of the deceased Buchu received compensation amount of Rs.49,44,240/- against acquisition of land. As the beneficiaries did not have account,

therefore, one joint account was opened in the IDBI Bank. As one of the beneficiary Santoshi was not available, therefore, she was impersonated by one Mohani Bai. The whole compensation amount was deposited in the joint account, thereafter, the other accounts were opened in the name of the beneficiaries and others and the amount from joint account was transferred to the other accounts. It is alleged that the applicant Shyam Narayan Gupta has made withdrawal from the accounts of the accounts holder and has misappropriated the same. Similarly the applicant Amit Kumar Gupta has connived in the offence committed. Hence, this case.

10. Considered the submissions made and the contents of the case diary.

After considering the entire material present in the case diary I am of this view that the case has now been investigated and is pending for trial. Further applicant Amit Kumar Gupta (in M.Cr.C.(A) No. 1410 of 2019) being a Bank Manager has duty to perform when any cheque is presented to him for honouring the same if it is correct in all respects, hence for this reason this Court is of the opinion that applicants in M.Cr.C. No.5090 of 2019 and M.Cr.C. No.5471 of 2019 deserve to be enlarged on regular bail and applicant in M.Cr.C.(A) No.1410 of 2019 also deserve to be enlarged on anticipatory bail.

11. Accordingly, the anticipatory bail application of applicant in M.Cr.C.(A) No.1410 of 2019 is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offences, he shall be released on bail by the officer arresting him on his 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. The

applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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 applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

12. Likewise, both the regular bail applications filed under Section 439 of Cr.P.C. are also allowed. It is directed that applicants- in M.Cr.C. No.5090 of 2019 and M.Cr.C. No.5471 of 2019 shall be released on bail on their furnishing a personal bond for a sum of Rs.25,000/- with one local surety each in the like sum to the satisfaction of the trial Court concerned, for their appearance as and when directed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge