

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 267 of 2020**

1. Khelawan Sahu S/o Kartikram Sahu aged about 55 Years R/o Thakurdev Chowk, Palari, Police Station and Tahsil Palari, District Baloda Bazar Bhatapara, Chhattisgarh.,
2. Bhisim Narayan Rajak S/o Vishnu Prasad Rajak Aged About 39 Years R/o Village Gandhi Chowk, Palari, Police Station And Tahsil Palari, District Baloda Bazar-Bhatapara, Chhattisgarh.,

---- Applicants**Versus**

- State of Chhattisgarh Through - Police Station Palari, District Baloda Bazar-Bhatapara, Chhattisgarh.

---- Respondent**&****MCRCA No. 293 of 2020**

- Purushottam Lal Verma S/o Tukaram Verma aged about 49 Years R/o Village Rammanohar Ward Palari, P.S. And Tahsil Palari, District Balodabazar-Bhatapara, Chhattisgarh,

---- Applicant**Versus**

- State of Chhattisgarh Through Police Station Palari, District Balodabazar-Bhatapara, Chhattisgarh

---- Respondent

For Applicant in MCRCA : Mr. Rakesh Pandey, Advocate.
No. 267 of 2020.

For Applicant in MCRCA : Mr. Varunendra Mishra, Advocate.
No. 293 of 2020.

For Respondent/State : Mrs. Fouzia Mirza, AAG.

Hon'ble Shri Justice Manindra Mohan Shrivastava**Order on Board****18-06-2020**

Heard.

1. As both the applications arise out of same crime number, they are heard analogously and are being disposed of by this common order.
2. The applicants have preferred the bail applications for grant of anticipatory bail under Section 438 of Code of Criminal Procedure, 1973 apprehending their arrest in connection with Crime No. 35 of 2020 registered at Police Station – Palari, District Baloda Bazar-Bhatapara (CG) for alleged commission of offence under Section 420/34 of IPC.
3. Case of the prosecution is that one Vipin Bihari Agrawal, agriculturist had only 32.859 hectares of land recorded in his name in Rin Pustika. 24.99 hectares of land was recorded in the name of his parents. His parents died in the year 2012-2013. Thereafter, even though, name of Vipin Bihari Agrawal was not mutated in revenue records and his name was not recorded in Rin Pustika, said Vipin Bihar Agrawal got his name registered as agriculturist in respect of entire land including his own land as also the land which belonged to his parents and had grown paddy not only in the agricultural land recorded in his name but also the land recorded in the name of his parents. The allegation against the applicant Purushottam Lal Verma is that at the relevant time,

during 2013-2014 he was working as Manager of the Paddy Procurement Society. Though applicant Khelawan Sahu was posted later on, allegation against him is that even though knowing fully well, he did not inform the matter to the higher authorities nor took any steps on the complaint made before it. The applicant Bhism Narayan Rajak is alleged to be involved on the basis that at the relevant time, when transaction took place, he was working as Computer Operator and he called the relevant register in respect of entire land and entered the name of co-accused Vipin Bihari Agrawal in the said register.

4. At the outset, learned counsel for the applicants would submit that Vipin Bihari Agrawal has been enlarged on bail by this court by allowing the application filed under Section 439 of Cr.P.C., vide order dated 20-3-2020 passed in M.Cr.C.No. 1003 of 2020. It is further submitted that even though, technically speaking, land 24.99 hectares was not mutated nor recorded in his name in Rin Pustika, the land belongs to his parents and after their death it is the applicant who was cultivating those lands and there is no material that those lands were not being cultivated by him after death of his parents, therefore, there is no *mens rea* and technical fault would not amount to commission of offence of cheating as neither he has received any wrongful gain nor State suffered any wrongful loss as the applicant claims to be the owner of 24.99 hectares.

5. On the other hand, learned counsel for the State opposing prayer for grant of anticipatory bail would submit that the paddy

procurement guidelines issued by the Government necessarily require registration on the basis of entries made in Rin Pustika maintained in respect of every individual agriculturist to approach Paddy Procurement Centre for selling paddy. She would further submit that the paddy procurement guidelines have been framed to avoid fake registration and the agriculturists who are growing paddy in their agricultural field alone are allowed to sell paddy in Paddy Procurement Centre. Even though, 24.99 hectare of land belonged to the parents of Vipin Bihari Agrawal, after death of his parents, land was not recorded and mutated in the name of Vipin Bihari Agrawal nor in Rin Pustika. Accused persons, even though name of Vipin Bihar Agrawal was not recorded in Rin Pustika in respect of 24.99 hectares of land, allowed registration to be done in respect of the entire land including the land comprising of 32.859 hectares recorded in the name of Vipin Bihari Agrawal and 24.99 hectares of land recorded in the parents of Vipin Bihari Agrawal without being mutation in the name of Vipin Bihari Agrawal, therefore, a case is made out. She would further submit that in this manner co-accused Vipin Bihari Agrawal succeeded in selling paddy grown in agriculture land which was not recorded in his name in Rin Pustika.

6. On prima facie consideration, it is not disputed that 24.99 hectares of land though not recorded in the name of Vipin Bihari Agrawal, was recorded in the name his parents who died in the year 2012-2013. Learned State counsel could not bring to the notice of

this court any material collected by the Police, *prima facie*, to show that after death of parents of Vipin Bihari Agrawal, 24.99 hectares of land recorded in their names were mutated in the name of other person who was actually cultivating those lands and not Vipin Bihari Agrawal. Therefore, there is considerable force in the submission of learned counsel for the applicants that present cases do not involve any *mens rea* and it is only technical flow rather than causing any wrongful loss to the State because Vipin Bihari Agrawal is the son of those, in whose name, 24.99 hectares of land was recorded. It is also brought to the notice of this court that certain civil disputes are also pending impleading Vipin Bihari Agrawal in respect of land left behind by his parents.

7. Be that at it may, considering that though, there is no material that the land was not registered in the name of Vipin Bihari Agrawal but it belongs to his parents where the land was actually being cultivated by their parents and not Vipin Bihari Agrawal, this court had granted regular bail to Vipin Bihari Agrawal, considering all the above circumstances, in the opinion of this court, all the applicants are entitled to benefit of anticipatory bail.

8. Accordingly, both the applications are allowed and it is directed that in the event of arrest of the applicants Khelawan Sahyu and Bhism Narayan Rajak in M.Cr.C.A.No. 267 of 2020 and applicant Purushottam Lal Verma in M.Cr.C.A. No. 293 of 2020 in connection with the aforesaid offence, they shall be released on bail on each of them furnishing a personal bond in the sum of

Rs.25,000/- along with one local surety for the like amount to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial court and the applicants shall abide by all the following terms and conditions.

- (i) that the applicants shall make themselves available for interrogation by a Police 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 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.

Certified copy as per rules.

Sd/-

(Manindra Mohan Shrivastava)

J U D G E

Raju