

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.326 of 2020

- Smt. Sushila Sahu, W/o Shri Natthuram Sahu, Aged About 37 Years, R/o Village Sundarkera, Police Station Gobra Navapara, Tahsil Abhanpur, Civil and Revenue District Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Acting Through Officer-In-Charge, Police Station Gobra Navapara, District : Raipur, Chhattisgarh

---- Respondent

MCRCA No.327 of 2020

- Harishchand Tarak, S/o Shri Saugandh Ram Tarak, Aged About 45 Years, Resident Of Village- Sunderkera, Police Station- Gobra Navapara, Tehsil- Abhanpur, Civil And Revenue, District Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Officer-In-Charge, Police Station- Gobra Navapara, District- Raipur, Chhattisgarh

---- Respondent

For Applicants

Shri K. A. Ansari, Senior Advocate with
Shri Ramesh Nayak, Advocate

For Respondent

Ms. Fouzia Mirza, Addl. AG

Proceeding through Video Conferencing

Hon'ble Justice Shri Prashant Kumar Mishra

Order On Board

14/08/2020

1. The applicants have preferred these bail applications under Section 438 of the CrPC, as they are apprehending their arrest in

connection with Crime No.388/2019, registered at Police Station Gobra Navapara, District Raipur for the offence punishable under Sections 466, 467 & 468 read with Section 34 of IPC.

2. The applicant Sushila Sahu is the Sarpanch of Gram Panchayat Sundarkera, Block Abhanpur, District Raipur, whereas the applicant Harishchand Tarak is working as Mate in the said Gram Panchayat. In between 06.04.2016 to 19.04.2016, the work of deepening of Maa Karma Tank of the village was undertaken by the Gram Panchayat. It is alleged that the applicants have prepared forged muster roll of about 40 labourers showing them to have worked in the said work. The forged signatures of the persons were appended and the documents were prepared, however, the amount could not be withdrawn.
3. The sarpanch was proceeded under Section 40 of the Chhattisgarh Panchayat Raj Adhiniyam, 1993 and has been removed from office.
4. Learned Senior counsel appearing for the applicants would submit that Smt. Sushila Sahu is a lady, aged about 37 years, and the work was infact looked after by her husband, who has already been released on anticipatory bail. He would further submit that the concerned Janpad Panchayat constituted an enquiry committee, who has submitted a report finding irregularities without involving any culpability. He would next submit that pursuant to the report dated 14.08.2016, an FIR was proposed to be lodged, but the concerned CEO did not initiate any action. Thereafter, the CEO, Jila Panchayat again directed the Janpad Panchayat on 13.05.2019 to lodge FIR, otherwise an

FIR would be lodged against the CEO, Janpad Panchayat himself. According to him, no amount has been withdrawn from the panchayat fund, therefore, there is no loss to the exchequer and the matter is about 4 years old.

5. Learned State counsel would vehemently oppose the prayer for grant of bail. She would submit that the signatures of persons, who have not worked in the project, were forged and even minors/school students have been shown to have worked. She would also submit that the amount could not be withdrawn, because the villagers raised objection and the crime became known to the entire village.
6. After hearing learned counsel for the parties at length, it appears that an enquiry was conducted, wherein preparation of forged muster roll was found *prima facie* proved. However, it is the stand of the Sarpanch Sushila Sahu that this preparation of muster roll was done by her husband and her signature was also appended by her husband. It also appears that the concerned CEO and the Enquiry Committee did not recommend for any criminal action. It is also to be seen that the amount has not been withdrawn from the panchayat fund by using the forged muster roll.
7. Considering that Joyidha Tarak has already been granted anticipatory bail in MCRC No.1655/2019 and Upsarpanch Dauvaram Patel and Panch Natthuram Sahu, who happens to be the husband of the present applicant Sushila Sahu, have also been released on anticipatory bail in MCRC No.1756/2019 and other accused Radheshyam Sahu and Komal Singh Dhruv have been released on regular bail in MCRC No.7714/2019 and

MCRC No.87/2020, respectively, as also for the reason that the applicant Sushila Sahu is a lady, aged about 37 years, and the panchayat fund has not been withdrawn pursuant to the preparation of muster roll, this Court is inclined to extend benefit of anticipatory bail to the applicants.

8. Accordingly, both the bail applications are allowed and it is directed that in the event of arrest of the applicants, they shall be released on anticipatory bail on each of them executing a personal bond for a sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the Arresting Officer with the following conditions:-

(i) they shall make themselves available for interrogation by a police officer as and when required.

(ii) 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) they shall not influence the witnesses during pendency of the trial.

Sd/-
Prashant Kumar Mishra
Judge

Nirala