

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 521 of 2020

- Mohammed Kalam Mansoori S/o - Mohd. Jamruddin Mansoori Aged About 30 Years R/o – Ramanujganj, Ward No. 4, P.S. Ramanujganj, District Balrampur - Ramanujganj Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through - Police Station Ramanujganj, District Balrampur - Ramanujganj Chhattisgarh.

---- Respondent

AND

MCRCA No. 578 of 2020

- Kaushlendra Kumar Suman S/o Shri Baleshwar Singh Aged About 43 Years (wrongly mentioned as 66 years), R/o Jalsansadhan Colony, Ramanujganj, P. S. Ramanujganj Revenue And Civil District Balrampur-Ramanujganj Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Ramanujganj District Balrampur-Ramanujganj Chhattisgarh.

---- Respondent

AND

MCRCA No. 748 of 2020

- Umashankar Ram S/o Late Boya Ram, Aged About 53 Years Occupation - Posted As Executive Engineer Water Resource Department (Ramanujganj) Division . 02), R/o Jalsansadhan Colony Ramanujganj Police Station Ramanujganj, Revenue And Civil District - Balrampur - Ramanujganj Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Ramanujganj, District - Balrampur - Ramanujganj Chhattisgarh.

---- Respondent

For Applicant (MCRCA No. 521/2020)	:Shri Uttam Pandey, Advocate.
For Applicant (MCRCA No. 578/2020 & MCRCA No. 748/2020)	:
	Shri Sunil Tripathi and
	Shri Apoorva Tripathi, Advocates.
For Respondent/State	: Shri Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

15/07/2020

1. As the above cases arise out of same crime number, therefore, they are being decided by this common order.
2. The Applicants are apprehending their arrest in connection with Crime No. 70/2020 registered at Police Station Ramanujganj, District Balrampur-Ramanujganj, (C.G.). for the offence punishable under Sections 420, 409, 34 of IPC.
3. As per the prosecution story, in the year 2017-2018, under the scheme of MGNAREGA, sum of Rs. 24.36 Lakhs was sanctioned for carrying work. At that time applicant (MCRCA No. 521/2020) namely Mohammed Kalam Mansoori was the Contractor, applicant (MCRCA No. 578/2020) namely Kaushlendra Kumar Suman was posted as Accountant and applicant (MCRCA No. 748/2020) namely Umashankar Ram was posted as Executive Engineer in the office of Water Resource Department. It is alleged that without completing any work and without producing any work completion certificate and bill voucher Rs. 17,47,655/- and Rs. 68,219/- were deposited/transferred in the account of co-accused Mazrul Haque one of the Contractors and Rs. 97,920/- was deposited in the account of applicant Mohammed Kalam Mansoori. Allegation against applicant

Umashanker Ram is that he conspired with the other co-accused persons and without verification or sanction of bill, made unauthorised payments in the account of the MGNAREGA contractors. Allegation against applicant Kaushlendra Kumar Suman is that, being an accountant, he also conspired with the co-accused persons and provided digital signature to other co-accused person i.e. applicant (MCRCA No. 676/2020) i.e. Data Entry Operator. Allegation against applicant Mohammed Kalam Mansoori is that, being a MGNAREGA contractor, without conducting any work, he fraudulently received amount of Rs. 97,920/-. On the basis of the above background, report was lodged by one Sanjay Kumar, SDM and on the basis of the said, offence was registered.

4. Learned Counsel appearing for the applicants submit that the applicants are innocent and have been falsely implicated in the present case. Counsel appearing for applicant in MCRCA No. 521/2020 submits that applicant has not conducted any work under MGNAREGA and he has not submitted any bill voucher and without giving intimation, Data Entry Operator has transferred amount of Rs. 97,920/- in the account of the present applicant. When this applicant came to know about the said fact, he returned the said amount on 31.10.2018 i.e. before lodging of the F.I.R. Counsel appearing on behalf of applicant in MCRCA No. 578/2020 submits that main allegation is against the Data Entry Operator who mis-used the digital signature and mis-appropriated the fund. Applicant being an accountant was not involved in the payment of amount. He was also not the custodian of the digital signature. Therefore, no case is made

out against him. Counsel appearing for applicant in MCRCA No. 748/2020 submits that work order of MNREGA was allotted to the contractor under the supervision of SDM. Applicant being the Executive Engineer, was responsible for approval of bill voucher and after verification he had approved the same. It was the Data Entry Operator who mis-used the bill voucher without approval and made the alleged transactions. On 12.1.2018, applicant (Executive Engineer) issued show cause notice to the Data Entry Operator in this regard which is annexed as Annexure A-2. Thus, *prima facie*, no case is made out against him also. Therefore, it is prayed by all the Counsel appearing for the applicants that applicants may be granted benefit of anticipatory bail.

5. Learned Counsel appearing for the State opposes the bail application.
6. I have heard learned Counsel appearing for the parties and perused the material available with due care.
7. Taking into consideration the submissions put-forth on behalf of the parties, evidence collected by the prosecution and particularly considering the fact that applicant in MCRCA No. 521/2020 (Contractor) had returned the alleged amount prior to lodging of the F.I.R., main allegation is against the Data Entry Operator and further considering the fact that there is no direct allegation regarding the alleged act against applicant Nos. 578/2020 (Accountant) and MCRCA No. 748/2020 (Executive Engineer), without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicants.

8. Accordingly, the bail applications are allowed.

9. It is directed that in the event of arrest of the applicants in connection with the aforesaid crime, they shall be released on anticipatory bail on each of them furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. They shall also abide by all the following terms and conditions :

- (i) 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 fact to the Court,
- (ii) They shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) They shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
Judge