

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 851 of 2020

- Ganesh Patel S/o Pitram Patel Aged About 29 Years By Caste Aghariya, R/o Village Kena, Post Patti Girola, Police Station Saraipali, District Mahasamund, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Saraipali, District Mahasamund, Chhattisgarh.

---- Respondent

AND

MCRCA No. 898 of 2020

- Dewanand Das S/o Shri Shashibhushan Das, Aged About 38 Years By Caste Bramhan, Occupation Data Entry Operator, R/o Village Antarala, Thana And Tehsil Saraypali, District Mahasamund, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Saraypali, District Mahasamund, Chhattisgarh.

---- Respondent

AND

MCRCA No. 911 of 2020

- Bhishmdev Patel S/o Bilas Patel, Aged About 32 Years R/o. Village Kena, Police Station And Post Saraipali, District Mahasamund, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Saraipali, District Mahasamund, Chhattisgarh.

---- Respondent

AND

MCRCA No. 923 of 2020

- Mohit Lal Patel S/o Shambhulal Patel Aged About 48 Years Caste Aghariya, R/o Village Kena, Police Station And Tahsil Saraipali, District Mahasamund, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Saraipali, District Mahasamund Chhattisgarh.

---- Respondent

AND

MCRCA No. 933 of 2020

- Vijay Kumar Barik S/o Nityanand Aged About 36 Years R/o Village Jalgarh, Police Station And Tehsil Saraipali, District Mahasamund Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Saraipali, District Mahasamund, Chhattisgarh.

---- Respondent

For Applicant (MCRCA No.851/2020)	: Shri Gurudev I. Sharan, Adv.
For Applicant (MCRCA No.898/2020)	: Shri Sunil Sahu, Advocate.
For Applicant (MCRCA No.911/2020)	: Shri Manoj Paranjpe, Adv.
For Applicant (MCRCA No. 923/2020)	: Shri Shivendu Pandya, Adv.
For Applicant (MCRCA No. 933/2020)	: Shri Manoj Paranjpe, Adv.
For Respondent/State	: Shri D.P. Singh, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

04/09/2020

1. Heard through video conferencing.
2. As all the above cases arise out of same crime number, therefore, they are being decided by this common order.

3. The applicants have preferred the first bail application under Section 438 of Cr.P.C. for apprehending their arrest in connection with Crime No. 218/2020 registered at Police Station Saraipali, District – Mahasamund, (C.G.) for the offence punishable under Section 409/34 of the Indian Penal Code.
4. In the present case, at the relative time applicants (in MCRCA No. 851/2020; MCRCA No.898/2020) were posted as Computer Operator, applicants (in MCRCA No. 911/2020; MCRCA No. 933/2020) were posted as Incharge of the Paddy Procurement Centre, Kena. Applicant (in MCRCA No. 923/2020) was the President of the said Society. According to the case of the prosecution, on 16.06.2020, on verification of the stock, it was found that 831.13 quintals of paddy amounting Rs. 20,77,825/- was missing. Report was made in this regard and on the basis of the said, offence has been registered.
5. Learned Counsels appearing for the applicants submit that applicants are innocent and have been falsely implicated in the present case. They further submit that Primary Agriculture Co-operative Society, Kena purchased the paddy from registered farmers between 1.12.2019 to 15.2.2020. Referring to the Clause 16.4 of the guidelines i.e. Annexure A/2, it has been submitted by learned Counsel Shri Manoj Paranjpe that according to the guidelines the said paddy should have been lifted by the marfed within 72 hours, but despite of repeated request made by paddy procurement centre i.e. Annexure A/4 and the order passed by the Collector i.e. Annexure A/3, paddy was not lifted and the damage has been caused due to heavy rain.

Learned Counsel jointly submitted that there is an arbitration clause in the agreement but F.I.R. has been lodged contrary to the provisions of the agreement. *Prima facie*, no offence is made out against any of the applicants. Therefore, it is prayed that applicants may be granted benefit of anticipatory bail.

6. Learned Counsel appearing for the State opposes the anticipatory bail applications.
7. I have heard learned Counsel appearing for the parties and perused the material available.
8. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence collected by the prosecution and after due perusal of the annexed documents referred by the Counsel for the applicants, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicants.
9. Accordingly, the anticipatory bail applications are allowed.
10. 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 them 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 them by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
Judge