

NAFR

**HIGH COURT OF CHHATTISGARH, BILASPUR****M.Cr.C.(A) No.1061 of 2020**

J. Shankar, aged about 52 years, son of Late Dr. J. Shyam Sundaram, presently posted as Principal, Govt. High School, Nansiya, District Raigarh, Address H.No.29, Golden Homes, VIP States, Khamardih, Raipur, District Raipur, Chhattisgarh

---- Applicant

**versus**

State of Chhattisgarh through the Anti Corruption Bureau, Raipur, Chhattisgarh

---- Respondent

**M.Cr.C.(A) No.1063 of 2020**

Sachchidanand Shastri, son of J.P. Shastri, aged about 57 years, R/o Block 2 First Floor, 22 D.D. Awas Apartment, Avanti Vihar Raipur, District Raipur, Police Station Telibandha, Presently posted as Lecturer S.C.E.R.T., Raipur, Chhattisgarh

---- Applicant

**versus**

State of Chhattisgarh through Station House Officer, Police Station Economic Offence Wing, Raipur, District Raipur, Chhattisgarh

---- Respondent

**and****M.Cr.C.(A) No.1131 of 2020**

Sanjay Pillay, son of Late Shri R.S. Pillay, aged 54 years, R/o 404, Ganpati Heights, Mowa, Raipur, District Raipur, Chhattisgarh

---- Applicant

**versus**

State of Chhattisgarh through Station House Officer, Police Station State Economic Offences Wing, Raipur, District Raipur, Chhattisgarh

---- Respondent

---

|                           |   |                                                                                                                |
|---------------------------|---|----------------------------------------------------------------------------------------------------------------|
| For Respective Applicants | : | Shri Rajeev Shrivastava, Shri S.P. Yadav, Shri Raza Ali, Shri A.V. Shridhar and Shri Himanshu Sinha, Advocates |
| For Respondent/State      | : | Shri Alok Bakshi and Shri Amrito Das, Additional Advocates General                                             |

---

**Hon'ble Shri Justice Arvind Singh Chandel**

**Order on Board**

**28.8.2020**

1. M.Cr.Cs.(A) No.1061 of 2020 and 1063 of 2020 are already admitted and listed for final hearing. M.Cr.C.(A) No.1131 of 2020 is listed for hearing on admission. All the three anticipatory bail applications arise out of a common crime registered as Crime No.19 of 2020 and case diary is available. Therefore, Learned Counsel appearing for the parties pray that all the three bail applications may be heard finally together and disposed of. Prayer is allowed. The bail applications are heard and disposed of together.
2. The instant are first applications for grant of anticipatory bail to the Applicants. They are apprehending their arrest in connection with Crime No.19 of 2020 registered with Anti Corruption Bureau/Economic Offences Wing, Raipur for offence punishable under Sections 120B, 420, 467, 468, 471 of the Indian Penal Code and Sections 7(c) and 13(2) of the amended Prevention of Corruption Act, 1988 ('PC Act' for brevity).
3. The case, in brief, is that there are total 5 accused persons. According to the case of the prosecution, co-accused Ashok Chaturvedi, who was the General Manager of Chhattisgarh Pathya Pustak Nigam, was authorised for allotment of tender for the year 2017. Tenders were invited for the work of green board/retro reflective sign board and other material. Ashok Chaturvedi was the Chairman of the tender/purchase committee. All the

Applicants herein were members of the said tender/purchase committee. Last date for submission of tenders was 24.11.2017. On 25.11.2017, tenders were opened by the said tender/purchase committee. 4 firms, namely, (i) M/s Hope Enterprises, Raipur (Proprietor co-accused Hitesh Choubey), (ii) M/s New Creative Fiber Glass, Raipur, (iii) M/s Mini Cignages, Raipur and (iv) M/s S.R. Enterprises, Raipur submitted tenders. The tender/purchase committee did not found the tender of M/s S.R. Enterprises, Raipur fit for acceptance and the technical tenders of rest 3 firms were approved by the said tender/purchase committee. Thereafter, financial tenders were opened and finally tender of M/s Hope Enterprises, Raipur was approved for allotment of work. In the years 2017-18 and 2018-19, M/s Hope Enterprises was made payment of total Rs.6,55,48,598/-. It is alleged that the tenders of the rest 3 firms were submitted by the proprietor of M/s Hope Enterprises by conspiring with the present Applicants and other co-accused persons. No signatures were put in those tenders. It is further alleged that no representatives of the said 3 firms in question were present at the time of opening of the tenders. Therefore, re-tendering was to be done, but doing conspiracy with the proprietor of M/s Hope Enterprises on the basis of said 3 forged tenders, tender of M/s Hope Enterprises was approved for allotment of work. It is further alleged that the provisions of the State Purchase Rules were also not followed by the said purchase committee. It is further alleged that a meeting, namely, meeting No.51 was convened by the executive committee of the Chhattisgarh Pathya Pustak Nigam on 28.2.2018 in which total 12 subjects were listed in the agenda of the meeting for

consideration. The said agenda consisting of 12 subjects did not contain any subject relating to the tender of M/s Hope Enterprises. Thereafter, in meeting No.52 of the said executive committee, subjects of agenda of meeting No.51 were approved. Allegedly, the present Applicants and other co-accused persons got subject No.13 added and thereby got the tender of M/s Hope Enterprises approved by doing forgery and thus M/s Hope Enterprises was allotted the work. Hence, the Applicants committed the crime in question. On the basis of such allegations, the Anti Corruption Bureau/Economic Offences Wing, Raipur registered the offence in question against the present Applicants and other co-accused persons.

4. Learned Counsel appearing for Applicant J. Shankar submits that name of Applicant J. Shankar was recommended for working as a member of the tender committee, but he had requested for removal of his name from the said tender committee vide letter dated 19.7.2017 because of lack of his experience in tender matters. Despite that, he was continued to remain as a member of the said tender committee. Applicant J. Shankar did not possess knowledge of tender matters and he was not an expert in relevant technical matters. On the direction of the Managing Director of Chhattisgarh Pathya Pustak Nigam, he had conducted all the proceedings.

As regards Applicant Sachchidanand Shastri, Learned Counsel appearing for him, referring to a note dated 25.11.2017 recorded relating to opening of the tenders, submits that according to the said note, at the time of opening of the tenders,

representatives of all the firms were present. Therefore, the allegation of the prosecution that the documents of rest 3 firms in question are forged does not have any substance. Learned Counsel further submits that as per Annexure A/5, for meeting No.51, which was convened on 28.2.2018, subject No.13 was already included in the agenda for the meeting and the said subject No.13 was approved and the approval bears signature of the Managing Director of Chhattisgarh Pathya Pustak Nigam. Thus, the allegation that forged documents were prepared afterwards with regard to subject No.13 in question is not sustainable.

Learned Counsel appearing for Applicant Sanjay Pillay submits that Applicant Sanjay Pillay was also not an expert in such tender matters. It was not possible for him to come to know that from whose bank accounts the demand drafts were generated. It was not within his knowledge that the rest 3 firms in question were forged firms.

It is further submitted by all the Learned Counsel appearing for the respective Applicants that no *prima facie* case under Sections 120B, 420, 467, 468, 471 of the Indian Penal Code and Sections 7(c) and 13(2) of the PC Act is made out against any of the Applicants. With regard to the offence under Sections 7(c) and 13(2) of the PC Act, it is further submitted that as contained in Section 17A of the PC Act, no inquiry or investigation can be conducted without previous approval. In the instant matter, no prior approval has been obtained. It is further submitted that all the Applicants were merely members of the tender/purchase

committee. The main allegations are against Ashok Chaturvedi, General Manager of Chhattisgarh Pathya Pustak Nigam. Ashok Chaturvedi has already moved a writ petition, being Writ Petition (Criminal) No.274 of 2020 before this Court in which vide order dated 30.6.2020 (Annexure A/4) it has been directed that no coercive steps shall be taken against him. It is further submitted that the whole matter is based on documentary evidence and all the documents have already been seized from the office of the Pathya Pustak Nigam. No official document is in possession of any of the Applicants. Therefore, custodial interrogation of the Applicants is also not required.

Thus, claiming that the Applicants have been falsely implicated, it is prayed that they may be extended the benefit of anticipatory bail.

5. Learned Counsel appearing for the Respondent/State jointly opposing the bail applications submit that the tenders of the 3 firms in question did not bear any signatures, but despite that they were accorded technical approval by the present Applicants. The Applicants were aware since beginning that all the 3 firms in question were forged. The Applicants, conspiring with M/s Hope Enterprises, approved its tender for allotment of work. Earlier, the agenda of meeting No.51 had contained only 12 subjects, but later on, by doing forgery by the Applicants, subject No.13 was included in the agenda and signature of the Managing Director of Chhattisgarh Pathya Pustak Nigam was obtained. Referring to the judgment in **P. Chidambaram v. Directorate of Enforcement, (2019) 9 SCC 24**, it is submitted that the nature of offence in the

instant case is economic and it involves a huge government money of Rs.6,55,48,598/-. As regards the provision of Section 17A of the PC Act, relying upon the order dated 6.2.2020 passed by this Court in connected Review Petitions No.43 of 2020 (**Satish Pandey v. Union of India**) and 49 of 2020 (**B.L. Agrawal v. Kundan Singh Thakur**) as also upon the judgment in **Devender Kumar v. Central Bureau of Investigation, 2019 SCC OnLine Del 6482**, it is submitted that the provision of Section 17A of the PC Act is inserted only to provide protection to the public servants to discharge their official functions or duties with diligence and fairly to the best of their ability and judgment. It does not protect any person who is involved in the offence like the present one. It is further submitted that there are sufficient material available against the present Applicants. The offence relates to a huge government money. Looking to the nature of offence, custodial interrogation of the Applicants is essential. Hence, rejection of the anticipatory bail applications has been prayed for.

6. Per contra, as a reply, Learned Counsel appearing for the Applicants first submit that **P. Chidambaram case** (supra) cited by Learned Counsel appearing for the Respondent/State relates to the offences committed under the Prevention of Money-Laundering Act and, therefore, the said case, being distinguishable on facts, does not help the prosecution. It is further submitted that the Applicants were only the members of the tender/purchase committee. Virtually, all the decisions were taken by the Managing Director of Chhattisgarh Pathya Pustak Nigam and the Chairman of the tender/purchase committee. There may be unknowing negligence on the part of the Applicants, but it cannot be said that

there was any intention on their part to commit the alleged offence. The matter is based on documentary evidence and all the relevant documents have already been seized. No official document is in possession of the Applicants. Therefore, their custodial interrogation is not required.

7. I have heard Learned Counsel appearing for the parties and perused the entire material available minutely.
8. No doubt, the nature of offence is economic and it involves government money of Rs.6,55,48,598/-, but the evidence collected by the prosecution go to show that the main allegations are against Ashok Chaturvedi, General Manager of Chhattisgarh Pathya Pustak Nigam. He was Chairman of the tender/purchase committee. He has already been protected vide aforesaid order of this Court dated 30.6.2020 (Annexure A/4). There is no direct evidence against the present Applicants that they ever gained any undue advantage by the act in question. As regards requirement of custodial interrogation of the Applicants, it is clear that the matter is based on documentary evidence and all the documents have already been seized. No relevant official document is in possession of the Applicants. Therefore, it seems that their custodial interrogation is also not required. Therefore, considering the totality of the facts and circumstances of the case, I am inclined to grant anticipatory bail to the Applicants.
9. Accordingly, the applications for grant of anticipatory bail 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 Rupees One Lakh with two solvent sureties each for a sum of Rupees Fifty Thousand to the satisfaction of the Arresting Officer/Presiding Officer of the concerned Trial Court. The Applicants shall fully cooperate with the investigation and 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 them by the said Court till disposal of the trial.

Sd/-

**(Arvind Singh Chandel)**  
**JUDGE**