

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRCA No. 1119 of 2020

Naresh Kumar Jaiswal S/o Shri Duruj Ram Jaiswal Aged About 40 Years R/o Village And Post- Dongariya, Police Station And Tahsil- Lormi, District- Mungeli, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through- Station House Officer, Police Chowki- Khudiya, Police Station- Lormi, District- Mungeli, Chhattisgarh

---- Respondent

AND

MCRCA No. 1090 of 2020

Jugal Kishore Sahu S/o Shri Mohitram Sahu, Aged About 39 Years R/o Salheghori, Police Station And Tahsil Lormi, District Mungeli Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Station House Officer, Police Chowki Khudiya, Police Station Lormi, District Mungeli Chhattisgarh

---- Respondent

For Applicants	:Mr. Ratnesh Kumar Agrawal, Advocate.
For Respondent/State	:Mr. Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

14/09/2020

1. Since, both the bail applications arise out of same crime number, therefore, they are being decided by this common order.
2. The applicants have filed these bail applications for grant of anticipatory bail under Section 438 of the Cr.P.C. as they are apprehending their arrest in connection with crime no. 414/2020, registered at Police Chowki Khudiya, Police Station Lormi, Distt. Mungeli (C.G.) for the offence punishable under Sections 409 & 34 of the IPC.

3. In this case, applicant(in MCRCa No. 1119/2020) was Bardana In-charge, and applicant (in MCRCa No. 1090/2020) was Paddy Purchase In-charge in Paddy Procurement Centre Khudiya. According to the case of prosecution, a physical inspection was conducted in the said Paddy Procurement Centre wherein 1160.58 Quintals of paddy and 1235 numbers of *bardana* found in shortage. Allegedly, the applicants have embezzled the said quantity of paddy and *bardana*, therefore, as alleged by the prosecution, the applicants have embezzled the fund of State Government. On the basis of said background, offence has been registered.
4. Learned counsel appearing on behalf of the applicants submits that the applicants are innocent and have been falsely implicated in the present cases. He further submits that if the entire case of prosecution taken as it is, prima facie no offence can be made out against the applicants. Learned counsel for the applicants referred various clauses of agreement and argued that Markfed and the District Cooperative Central Bank have acted contrary to the agreement, Markfed has not issued demand order needed for taking of paddy exceeding buffer stock limit within a period of 72 hours such excess paddy nor taking of purchase paddy within a period of one month from the date of purchase of such paddy by the society and also not complied with the compulsory requirement under the agreement for taking of total paddy purchased by the society on or before 28.02.2020. There have been spurts of rain intermittently and the monsoon has already started, therefore, condition of purchased paddy has been deteriorated and the shortage has been found. The Counsel further referring various clauses of the agreement and it has been argued by the Counsel that insurance of the purchased paddy has also not been done, the matter is of civil nature and the shortage of paddy can be recovered. The Counsel lastly submits that the matter is totally based upon documentary evidence and there is no requirement of custodial interrogation of the applicants. Hence, it is prayed that the applicants may be granted benefit of anticipatory bail.
5. Per contra, learned counsel appearing on behalf of State opposes the bail

applications.

6. I have heard learned Counsel for the parties.
7. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties and after perusal of various clauses of the agreement as referred by Counsel for the applicants. Without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant anticipatory bail to the applicants.
8. Accordingly, the anticipatory bail applications are allowed.
9. It is directed that in the event of arrest, the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs. 25,000/- with one surety for the like sum to the satisfaction of the officer arresting them and they shall abide by all the following terms and conditions:-
 - I. That the accused/applicants shall made themselves available for interrogation before the concerned Investigating Officer as and when required;
 - II. The accused/applicants 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/her from disclosing such facts to the Court or to any police officer;
 - III. The accused/applicants shall not act, in any manner which will be prejudicial to fair and expeditious trial; and
 - IV. The applicants 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