

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

(Proceedings through Video Conferencing)

MCRC No. 2029 of 2021

- Manish Tandan, S/o Shri Ganpat Tandan, Aged About 26 Years, R/o Dondekhurd, Ward No. 15, Amrauteen Mata Ward, Police Station Vidhaansabha, District- Raipur, Chhattisgarh.
---- **Applicant**

Versus

- State of Chhattisgarh, Through- The Station House Officer, Police Station Amanaka, District- Raipur, Chhattisgarh.

---- **Non-Applicant**

MCRC No. 4422 of 2021

- Dhanesh Bharti, S/o Itwari Bharti, Aged About 46 Years, R/o M.D. 292 Veer Sawarkar Nagar, Heerapur, Police Station Amanaka Tahsil and District- Raipur, Chhattisgarh.
---- **Applicant**

Versus

- State of Chhattisgarh, Through- Station House Officer, Police Station Amanaka, District- Raipur, Chhattisgarh.

---- **Non-Applicant**

For Applicants : Mr. Kishore Bhaduri, Senior Advocate
with Mr. Pankaj Singh, Mr. K.K. Pandey,
Advocates

For Non-Applicant/State: Dr.(Ms.) Veena Nair, Dy. A.G.

Hon'ble Shri Justice Gautam Chourdiya

Order on Board

01.09.2021

- 1) Since both these cases arise out of same crime number, they are being disposed of by this common order.
- 2) First bail application of Dhanesh Bharti was dismissed as withdrawn by this Court vide order dated 24.02.2021 in MCRC

No. 9251/2021.

- 3) The applicants have preferred these Bail Applications under Section 439 of Code of Criminal Procedure, 1973 as they are in jail since 2.11.2020 & 03.11.2020 in connection with Crime No. 187/2020 registered at Police Station- Amanaka, District- Raipur (C.G.) for the offence punishable under Sections 420, 467, 468, 471 & 34 of IPC.
- 4) As per prosecution case, the complainant Yuvraj Sahu lodged report to the effect that the applicant alongwith other co-accused persons in the name of providing job on the post of computer operator, ward boy, ward girl and peon in AIIMS at Tatiband, Raipur to the complainant and other persons, obtained Rs. 2-3 lacs from each of them and issued them forged order-sheet and appointment letters whereas no such appointment was provided to them. In this manner, the applicant with other co-accused persons has cheated as many as 60 persons including the complainant herein.
- 5) Learned counsel for the applicants submit that the applicants have been falsely implicated in the crime in question. Learned counsel for the applicants further submits that the main accused namely Meghnath Chandravanshi who obtained money from the complainant party has already been granted bail by learned trial Court due to non filing of charge-sheet within the statutory period of 90 days. In the present case, charge-sheet has already been filed but no charges have been framed against the present applicants. There is no likelihood of the applicants tampering with the prosecution evidence or absconding and the applicants are in jail since 02.11.2020 & 03.11.2020 and due to Covid-19 pandemic, trial is likely to take some time for disposal. Therefore, the applicants be released on bail by this Court.
- 6) On the other hand, learned counsel for the Non-applicant/State vehemently opposes the bail applications.
- 7) In the matter of **Sanjay Chandra v. Central Bureau of Investigation**,

(2012) 1 SCC 40., the Hon'ble Supreme Court has observed in Para-22 of the said judgment as under:

22. From the earliest times, it was appreciated that detention in custody pending completion of trial could be a cause of great hardship. From time to time, necessity demands that some unconvicted persons should be held in custody pending trial to secure their attendance at the trial but in such cases, “necessity” is the operative test. In this country, it would be quite contrary to the concept of personal liberty enshrined in the Constitution that any person should be punished in respect of any matter, upon which, he has not been convicted or that in any circumstances, he should be deprived of his liberty upon only the belief that he will tamper with the witnesses if left at liberty, save in the most extraordinary circumstances.

8) In the matter of ***Arnab Manoranjan Goswami Vs. The State of Maharashtra & Ors. in Criminal Appeal No. 742 of 2020 arising out of SLP (Crl) No. 5598 of 2020***, the Hon'ble Supreme Court has reiterated certain factors which are to be kept in mind while considering the matters for grant of bail to the accused. In Para-57 of the said judgment, it has been observed as under:

“57. While considering an application for the grant of bail under Article 226 in a suitable case, the Hight Court must consider the settled factors which emerge from the precedents of this Court. These factors can be summarized as follows:

- i. The nature of the alleged offence, the nature of the accusation and the severity of the punishment in the case of a conviction;
- ii. Whether there exists a reasonable apprehension of the accused tampering with the witness or being a threat to the complainant or the witnesses;

- iii. The possibility of securing the presence of the accused at the trial or the likelihood of the accused fleeing from justice;
- iv. The antecedents of and circumstances which are peculiar to the accused;
- v. Whether *prima facie* the ingredients of the offence are made out, on the basis of the allegations as they stand, in the FIR; and
- vi. The significant interest of the public or the State and other similar considerations.”

9) Having heard learned counsel for the parties, the nature of allegation made against the present applicants, the fact that main accused of this case namely Meghnath Chandravanshi has already been granted bail by learned trial Court due to non filing of charge-sheet sheet within 90 days, till now trial has not commenced even charges have not been framed against the applicants, 36 witnesses are cited to be examined during trial, the detention period of the applicants, who are 26 & 46 years old, keeping in view the judgments of the Hon'ble Supreme Court in **Sanjay Chandra** (supra) and **Arnab Manoranjan Goswami** (supra), the fact that there is no likelihood of the applicants tampering with the prosecution evidence or absconding as admitted by both the counsel and due to Covid-19 pandemic conclusion of trial may take some time, without commenting anything on merits of the case, the applications are allowed.

10) It is directed that in the event of each of the applicants executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs.2,00,000/- each to the satisfaction of the concerned trial Court, they shall be released on bail on the following conditions:-

- (a) 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,
- (b) they shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (c) they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial,
- (d) they shall not involve themselves in any offence of similar nature in future,
- (e) they shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority.

Let a copy of this order be forwarded to the concerned police station forthwith who shall inform the trial Court in the event of applicants involving themselves in similar offence in future.

Sd/-
(Gautam Chourdiya)
Judge

Nadim