

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Proceedings Through Video Conferencing

MCRC No. 1983 of 2021

- Abhay Dubey, S/o Jamuna Prasad Dubey, aged about 37 Years, R/o House No. - 928, Second Street, Bai Ka Bagicha Dhamapur, District Jabalpur (M.P.).

----Applicant

Versus

- State of Chhattisgarh, Through Police Station - Tarbahar, Bilaspur, Chhattisgarh.

----Non-applicant

CRA No. 433 of 2021

- Abhay Dubey, S/o Jamuna Prasad Dubey, aged about 37 Years, R/o House No. 928 Second Street, Bai Ka Bagicha Dhamapur, District Jabalpur, (M.P.).

----Appellant

Versus

- State of Chhattisgarh, Through Police Station AJAK, Bilaspur (C.G.)

---- Respondent

MCRC No. 2420 of 2021

- Abhay Dubey, S/o Jamuna Prasad Dubey, aged about 37 Years, R/o House No.- 928, Second Street, Bai Ka Bagicha, Dhamapur, District- Jabalpur, Madhya Pradesh.

----Applicant

Versus

- State of Chhattisgarh, Through Police Station- Tarbahar, Bilaspur, Chhattisgarh.

----Non-applicant

For Applicants/Appellants	Shri Anil Khare, Senior Advocate with Shri Akash Shrivastava, Advocate.
For State	Shri Adil Minhaj, Government Advocate.
For Objector in MCRC No. 2420 of 2021	Shri Hemant Kesharwani, Advocate.
For Objector in MCRC No. 1983 of 2021 and CRA No. 433 of 2021	Shri Amiyakant Tiwari, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Order on Board

27/07/2021

MCRC No.1983 of 2021 & MCRC No.2420 of 2021

- Both the aforesaid bail applications filed under Section 439 of Cr.P.C. are being disposed of by this common order.

Applicant	Crime Nos. and Police Station	Offence under Sections	In jail since
Abhay Dubey in MCRC No.1983 of 2021	Crime No. 151/2020, Police Station Tarbahar, District Bilaspur, C.G.	Section 420 read with 34 of Indian Penal Code	21.01.2021
Abhay Dubey in MCRC No.2420 of 2021	Crime No.158/2020, Police Station Tarbahar, District Bilaspur, C.G.	Section 420 read with 34 of Indian Penal Code	22.01.2021

CRA No.433 of 2021

- This appeal by the accused/appellant under Section 14-A(2) of

the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act is directed against the order dated 10.03.2021 passed by the Special Judge, Atrocity, Bilaspur, C.G., rejecting his regular bail under Section 439 Cr.P.C. The appellant has been arrested in connection with Crime No.01/2020 for the offence punishable under Sections 420 read with 34 and 120-B of Indian Penal Code & Sections 3(1)(r), 3(1)(s) and 3(2)(va) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and registered at Police Station AJAK, District Bilaspur, C.G.

3. As per the prosecution case, co-accused Rajesh Seth and his wife co-accused Rajni Seth constructed certain flats in the name of Vinayaka Heights Building near underbridge at Tarbahar, Bilaspur and thereafter entered into separate agreements with complainants Santosh Rai, Sheetla Prasad Tripathi and Vighneshwar Naik for sale of flat to them. Consequently, the complainants gave advance amount to the accused persons. Thereafter, the accused persons in connivance with the bank officials of Cent Bank got home loans sanctioned in favour of the complainants on the basis of forged documents of their illegal construction which was made on the government land earmarked for *Gothan* and obtained the said amount from the complainants in a fraudulent manner.

Allegation against the present applicant/appellant is that

while working as Credit Officer in the Cent Bank, he intentionally sanctioned the home loan of the complainants on the basis of forged documents in connivance with co-accused Rajesh Seth and Rajni Seth. It is further alleged that when complainant Vighneshwar Naik, a member of scheduled caste, after coming to know about the fraudulent act of the accused persons, went to the bank and informed the applicant/appellant of the same, he was humiliated by him along with other bank employees in the name of his caste.

4. Learned counsel for the applicant/appellant submits that applicant/appellant is an innocent person and has been falsely implicated in this case. He submits that applicant/appellant was working as Credit Officer in the Cent Bank and his duty was to verify the documents about eligibility of the person for grant of loan and to recommend for the same. The documents placed before him were checked by the other employees of the Bank as per the procedure and the applicant/appellant had no connection with the co-accused persons. He submits that in fact the dispute between the parties is of civil nature. Applicant/appellant is languishing in jail since 21.01.2021, 22.01.2021 & 18.02.2021 respectively, charge sheet has already been filed and due to COVID-19 pandemic, conclusion of trial is likely to take some time. Therefore, applicant/appellant be released on bail.
5. On the other hand, learned counsel for the State opposes the bail applications.

6. Shri Amiyakant Tiwari, learned counsel appearing for the Objector raises no objection to release of the applicant/appellant on bail whereas Shri Hemant Kesharwani, learned counsel for the objector has opposed the bail applications.
7. Heard learned counsel for the parties.
8. Considering the facts and circumstances of the case, the nature of allegation against the applicant/appellant, the role attributed to him in commission of the alleged offence, the detention period of the applicant/appellant, who is 37 years old, charge sheet has been filed, the fact that the applicant/appellant has no criminal antecedents and there is no likelihood of the applicant/appellant tampering with the evidence or absconding as admitted by both the counsel and due to COVID-19 pandemic, conclusion of trial may take some time, both the bail applications and the appeal are allowed. It is directed that in the event of applicant/appellant executing a personal bond for a sum of Rs.2,00,000/- with two sureties of Rs.1,00,000/- each to the satisfaction of the concerned trial Court, he shall be released on bail on the following conditions:-
 - (i) he 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) he shall not act in any manner which will be prejudicial to fair and expeditious trial, and
 - (iii) he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the

trial.

- (iv) he shall strictly follow the COVID-19 protocol issued by the Central Government / State Government / Local Authority.
- (v) he shall not involve himself in any offence of similar nature in future.

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

Sd/-
Gautam Chourdiya
Judge

Akhilesh