

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No.3599 of 2021

1. Sankalp Sharma S/o Anupam Sharma Aged About 28 Years R/o Ward No.11, Ganjpara, Bemetara, District Bemetara, Chhattisgarh
2. Punaram Lahre, S/o Gendram Lahre, Aged About 32 Years, R/o Village Karchuwa, P.S. and District Bemetara, Chhattisgarh

---- Applicants

Versus

State Of Chhattisgarh Through District Magistrate Bemetara, District Bemetara, Chhattisgarh

---- Respondent

For Applicants
For Respondent

Ms. Sareena Khan, Advocate
Mr. Alok Nigam, GA

Hon'ble Justice Shri Parth Prateem Sahu

Order On Board

29/11/2021

1. The applicants have filed this bail application under Section 439 of CrPC for grant of regular bail, as they have been arrested in connection with Crime No.685/2019, registered at Police Station Bemetara, District Bemetara (C.G.) for the offence punishable under Section 409/34 of IPC.
2. Case of prosecution is that auditors of ATM machines of different banks have conducted audit of the ATM machines from 12.10.2019 to 21.10.2019 and found that there is deficit of the amount of Rs.24,13,500/- which were handed over to the applicants to be deposited in the ATM machines. Based on the audit report, complaint was lodged by Bhupendra Saman, Branch Manager, CMS Info System Limited Company, Raipur against the applicants

making allegation that the applicants are employees of CMS Info System Company Ltd, who were engaged for managing ATM machines of different banks situated in the area. Applicants were engaged in the work of putting cash amount in different ATM machines of different banks within Bemetara and Saaja area. Applicants have not put entire money handed over to them in ATM machines and misappropriated huge amount. Based on the report, crime was registered and applicants were arrested.

3. Ms. Sareena Khan, learned counsel for the applicants, would submit that the applicants have been falsely implicated in the instant case. The period of audit is from 12.10.2019 to 21.10.2019, but prior to that period the applicants were arrested on 10.10.2019 in one another crime i.e. Crime No.539/2019 registered at Police Station Bemetara, hence they cannot be implicated in the present crime in question. She would further submit that the deficit of the amount of Rs.24,13,500/- has been found for the said period only, which is also evident from the audit report available in the charge sheet. The applicants are in jail since 10.10.2019 and there is no other criminal antecedents of the applicants, therefore, the applicants may be enlarged on bail.
4. Shri Alok Nigam, learned State counsel, would oppose the submission of learned counsel for the applicants and would submit that the applicants being employees of the CMS, Info System Company Ltd were custodians of the money handed over to them by different branches of different banks to be kept in ATM machines, but the entire money has not been placed by them in the ATM machines, hence they have committed breach of trust. He would further submit that the act of not depositing the entire money in the

ATM machines has also been captured in the CCTV footage, which is part of other crime i.e. Crime No.539/2019, in which the present applicants are the co-accused persons along with other accused persons. Submission of learned counsel for the applicants that the allegation against the present applicants in the instant crime of not depositing the entire money from 12.10.2019 to 21.10.2019 is not correct, because that is the period of audit and not the commission of crime. In the statement of the auditors, it has come that the audit was done of the transactions 2 months prior to the period of audit i.e. 12.10.2019 to 21.10.2019.

5. I have heard learned counsel for the parties.
6. Taking into consideration the submission made by learned counsel for the parties, nature of allegation, further considering the fact that the applicants were the employee of the CMS, Info System Company Ltd, they collected cash to be kept in the ATM machines of different branches situated at different places, they were custodians of the same and allegedly they misappropriated huge sum, I do not find the present to be a fit case to release the applicants on regular bail.
7. Accordingly, the bail application is dismissed.

Sd/-

Parth Prateem Sahu
Judge