

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 4579 of 2021**

- Sudarshan Pani S/o Shri Kalvin Pani aged about 45 years R/o II/06 Apollo Colony Bacheli, Thana – Bacheli, District- Dantewada (C.G.)

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station – Bacheli, District Dantewada (C.G.)

---- State/Non-Applicant

M.Cr.C. No. 4770 of 2021

1. Narendra Choudhary, S/o Late Nitai Choudhary, Aged about 41 years, R/o Bengali Camp-02, Bacheli, Tahsil, Dantewada, District Dantewada, Chhattisgarh
2. Sanjay Donald Dayal, S/o Late Virendra Kumar Dayal, aged about 50 years, R/o Old Market Ward No. 10, Bacheli, Tahsil, Dantewada, District Dantewada, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh (Through P.S. Bacheli, District Dantewada, Chhattisgarh)

---- State/Non-Applicant

And**M.Cr.C. No. 3717 of 2021**

- Sanjay Donald Dayal, S/o late Virendra Kumar Dayal, aged about 50 years, R/o Purana Market, Ward No. 10, Bacheli, Tahsil Dantewada and District Dantewada (C.G.)

---- Applicant

Versus

- State of Chhattisgarh through, SHO P.S. City Kotwali, District Dantewada (C.G.)

---- State/Non-Applicant

For Applicant	:	Shri Shubham Tripathi, Advocate appears in M.Cr.C. No. 4579/2021
For Applicants	:	Smt. Madhunisha Singh, Advocate appears in M.Cr.C. No. 4770/2021
For Applicant	:	Shri B.P. Singh, Advocate appears in M.Cr.C. No. 3717/2021
For Non-Applicant/State	:	Shri Adil Minhaz, Government Advocate

Hon'ble Shri Justice Gautam Chourdiya, J
Order on Board

06.09.2021

1. Heard.
2. All the above bail applications are being disposed of by this common order.
3. M.Cr.C. No. 4579 of 2021 and M.Cr.C. No. 4770 of 2021 are the first bail applications under Section 439 of Cr.P.C. preferred by the respective applicants arising out of the same crime number i.e. 10/2021 registered in Police Station- Bacheli, District Dantewada (CG) for the offence punishable under Sections 420, 468, 471, 473, 120 (B)/34 of IPC.
4. M.Cr.C. No. 3717 of 2021 is the second bail application under Section 439 of Cr.P.C. preferred by applicant- Sanjay Donald Dayal which arises out of Crime No. 393 of 2020 registered in Police Station City Kotwali, District Dantewada (C.G.) for the offence punishable under Sections 420, 467, 468, 471, 120 (B) of IPC.

The first bail application of applicant- Sanjay Donald Dayal was dismissed as withdrawn vide order dated 03.03.2021 passed in M.Cr.C. No. 70 of 2021.

5. Allegations against all the above present applicants are that they in conspiracy with each other obtained Rs.95,35,000/- from 57 persons in the name of getting them employment in NMDC.
6. Learned counsel for the applicants submit that the applicants are innocent persons and have been falsely implicated in these cases. They submit that the applicants are in jail since 19.10.2020, 30.01.2021 & 08.02.2021, charge-sheet has already been filed and due to Covid-19 pandemic, conclusion of trial is likely to take some time. Therefore, the applicants be released on bail. They also submit that co-accused namely- Smt. Chandrakiran Ogar has already been granted bail by the trial Court in Crime No. 393/2020.

7. On the other hand, learned counsel for the State opposes the bail applications.
8. Heard learned counsel for the parties.
9. 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.

10. 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 on 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 High 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.

11. Considering the facts and circumstances of the case, considering the nature of allegations made against the present applicants in respective bail applications, the pre-trial detention of the applicants who are 41, 45 & 50 years old which come to more than seven months, the incident is said to have taken place in the years 2017-2018 whereas the F.I.R. was lodged with an inordinate delay in the years 2020-2021, charge-sheet has already been filed, there is no progress in trial as out of 25 witnesses no any witness has been examined so far, due to covid-19 pandemic, conclusion of trial may take some time, the fact that there is no likelihood of the applicants tampering with the prosecution evidence or absconding as admitted by counsel for the parties, and further that co-accused namely Smt. Chandrakiran Ogar has already been granted bail by the trial Court in Crime No. 393/2020, a copy of order filed in M.Cr.C. No. 3717/2021 by Shri B.P. Singh, Advocate with covering memo dated 23.08.2021, keeping in view the judgments of Hon'ble Supreme Court in *Arnab Manoranjan Goswami* case and *Sanjay Chandra* case (supra), without commenting anything on merits of the case, the applications are allowed.

12. 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.1,00,000/- each to the satisfaction of the concerned Trial Court, they shall be released on bail, on following 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/her 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.
- iv. they shall strictly follow the COVID-19 protocol issued by the Central Government / State Government / Local Authority.
- v. they shall not involve themselves in any offence of similar nature in future.

13. 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 nature of offence.

14. In the result, M.Cr.C. No. 4579/2021; 4770/2021 & M.Cr.C. No. 3717/2021 are allowed on the above terms and conditions.

Sd/-

(Gautam Chourdiya)
Judge

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