

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1432 of 2020

1. Seema Agrawal W/o Shri Sanjay Agrawal, Aged About 45 Years, R/o School Para Baikunthpur, Tahsil Baikunthpur, District Koriya (C.G.).

----Applicant

Versus

1. State Of Chhattisgarh, Through Police Station Baikunthpur, District Koriya (C.G.).

---- Respondent

For Applicant	:	Mr. R.K. Gupta, Advocate.
For Respondent/State	:	Dr. (Ms.) Veena Nair, Dy. Advocate General.
For Objector	:	Mr. Maneesh Sharma, Advocate.

MCRC No. 6765 of 2020

1. Sanjay Agrawal S/o Shri Mahangi Lal Agrawal, Aged About 52 Years, R/o School Para Baikunthpur, Tahsil Baikunthpur, District Koriya (C.G.).

----Applicant

Versus

2. State Of Chhattisgarh Through Police Station Baikunthpur, District Koriya (C.G.).

---- Respondent

For Applicant	:	Mr. R.K. Gupta, Advocate.
For Respondent/State	:	Dr. (Ms.) Veena Nair, Dy. Advocate General.
For Objector	:	Mr. Maneesh Sharma, Advocate.

Hon'ble Justice Shri Gautam Chourdiya
Order On Board

18/01/2021

- 1) Heard.

- 2) As both theses applications arises out of the same crime number they are being disposed of by this common order.
- 3) Applicant Sanjay Agrawal has filed First Bail Application under Section 439 of Code of Criminal Procedure, 1973 for grant of bail as he is in jail since 02/09/2020 in connection with crime No. 227/2020, registered at Police Station Baikunthpur, District Koriya (C.G.) for the offence under Sections 484, 420, 467, 468, 471 of Indian Penal Code.
- 4) Applicant Seema Agrawal has filed First Bail Application under Section 438 of Code of Criminal Procedure, 1973 for grant of anticipatory bail as she is apprehending her arrest in connection with aforesaid crime number for the offence under Sections 420, 467, 468, 471/34 of Indian Penal Code.
- 5) Case of the prosecution, in brief is that applicants herein obtained license from the town and country planning Department by using forged and fabricated documents which were shown to have been issued by Municipal Council and on the basis of said license illegally constructed residential colony. On report being lodged to the above effect, offence under the aforesaid sections has been registered against the applicants.
- 6) Learned counsel for the applicants in both the applications submits that the applicants are innocent persons and have been falsely implicated in this case. He further submits that complainant Sanjay Jaiswal lodged FIR against the applicants alleging forgery of 5 documents, that too 5-6 years after those documents were prepared by the concerned authorities and only after completion of the construction on the land, completion certificate is given by the concerned authority in 2017. However, due to political rivalry complainant Sanjay Jaiswal lodged a written complaint against the present applicants in connivance with the Police and administrative authorities. The present applicants are member of Bhartiya Janta Party whereas the

complainant belongs to Congress Party and due to number of cases earlier registered against the applicant Sanjay Agrawal on account of political rivalry, a false allegation was made against him that he prepared 5 forged documents (vide **Annexure A-17 to A-21**) Demarcation report, Panchnama prepared during demarcation, earmarking handing over the plot for EWS, certificate regarding approach road and consent for extending water supply facilities to the proposed colony. He submits that after completion of construction of building, none had raised objection and completion certificate was given by the concerned Municipal Corporation. Earlier the applicants Sanjay Agrawal and Seema Agrawal had filed writ petitions WPC No. 1857/2020, WPC No. 1993/2020, WPC No. 2058/2020, WPCR No. 977/2019, WPCR No. 369/2016 and WPC No. 2619/2020 challenging the action of the Municipal Council and therefore in order to take revenge, due to political motivation, the applicants have been falsely implicated in this case at the instance of ward members of the Municipal Council. No offence as alleged has been committed by the applicants. All the offences are triable by the Magistrate, 48 witnesses have been cited by the prosecution but till date trial has not yet commenced, charge sheet has already been filed, applicant Sanjay Agrawal is in jail since 02/09/2020, no apprehension has been shown by the Police regarding the applicant's absconding or tampering with the evidence in the event of releasing them on bail and therefore, the applicants deserve to be released on bail.

- 7) State counsel submits that contention of the applicants' counsel regarding false implication of the applicants in the crime in question due to political rivalry is false and baseless. He submits that looking to the material collected by the Investigating Officer which has been filed with the charge sheet, prima facie case is made out against the applicants and therefore they do not deserve to be released on bail.
- 8) Mr. Maneesh Sharma, Advocate for the Objector vehemently

objected to release of the applicants on bail.

- 9) Heard learned counsel for the parties.
- 10) It is true that allegation against the present applicants is that they are involved in forgery of certain documents for getting licence for construction of colony from the Municipal Council and those documents are of the year 2013-2014. The present crime has been registered only on the complaint being made by the Corporator of Baikunthpur to the Police in the year 2020 and thereafter the matter was investigated and charge sheet has been filed. Applicant Sanjay Agrawal is also having certain criminal antecedents, some of which relate to cheating and forgery.
- 11) Considering the facts and circumstances of the case, the fact that the offence was allegedly committed in the year 2013-14 but FIR lodged on 14/12/2020, there has been number of litigations between the applicants and the Municipal Corporation, the principle of law laid down by the Hon'ble Supreme Court in Arnab Mahoranjhan Goswami Vs. The State of Maharashtra & Others (CRA No. 742/2020, judgment dated 27/11/2020) regarding Prima Facie evaluation of the FIR and grant of bail, all the offences are triable by the Judicial Magistrate First Class, charge sheet has already been filed, 48 witnesses have been cited by the prosecution but trial has not yet commenced due to COVID-19, applicant Sanjay Agrawal is in jail since 02/09/2020, conclusion of the trial is likely to take some time, applicant Seema Agrawal is on temporary bail since 09/11/2020 and has not misused the liberty granted by this Court, there is no active participation of applicant Seema Agrawal in the crime in question and that there is no apprehension of the applicants absconding or tampering with or influencing the witnesses, without commenting anything on merits of the case, this Court is of the opinion that present is a fit case for releasing the applicants on bail. Accordingly, both the applications are **allowed**.

- 12) In the event of Sanjay Agrawal executing a personal bond for a sum of **Rs. 4 Lakh** with two sureties of Rs. 2 Lakh each to the satisfaction of the concerned Trial Court, he shall be released on bail.
- 13) Likewise, in the event of arrest of applicant Seema Agrawal in connection with aforesaid offence, she shall be released on bail by the arresting officer on her furnishing a personal bond for a sum of **Rs. 4 Lakh** with two sureties of Rs. 2 Lakh each to the satisfaction of the arresting officer.
- 14) The applicants shall be released on bail on the 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 them 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 not involve themselves in any offence of similar nature in future.

-Sd/-
(Gautam Chourdiya)
Judge