

HIGH COURT OF CHHATTISGARH, BILASPUROrder reserved on 14-01-2021Order delivered on 21-01-2021**MCRCA No. 1285 of 2020**

- Hira Lal Nayak S/o Late Kunwar Singh Nayak Aged About 62 Years R/o Vijay Nagar Chowk , Near Avanti Vihar Sector 2, Tehsil And District Raipur , Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Jagdalpur , District Bastar Chhattisgarh.

---- Respondent**MCRCA No. 1392 of 2020**

1. Siyaram Kurre S/o Shri Santram Kurre Aged About 62 Years R/o Patraakar Colony, Near RB Hospital, District Bilaspur Chhattisgarh.
2. Dindayal Mandavi S/o Shri Bharat Singh Mandavi Aged About 39 Years R/o SDM House, PWD Colony, Keshkal, District Kondagaon Chhattisgarh.
3. Arjun Shrivastav S/o Shri Y.L. Shrivastav Aged About 55 Years R/o Shanti Nagar Jagdalpur District Bastar Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through Police Station Kotwali, Jagdalpur, District Bastar Chhattisgarh.

---- Respondent**MCRCA No. 1402 of 2020**

1. Dharam Narayan Sahu S/o Late Lakhan Sahu Aged About 62 Years R/o Bhagat Singh Ward No. 6, Patharaguda, Tehsil-Jagdalpur, District- Bastar, Chhattisgarh.
2. Koushal Kumar Thakur S/o Sevak Ram Thakur Aged About 43

Years R/o D.N.K. Colony, Kanera Road, District - Kondagaon,
Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station- Kotwali Jagdalpur, District- Bastar, Chhattisgarh.

---- Respondent

For Respective applicants:- Mr. Siddharth Shukla & Mr. Anchal Kumar
Matre, Advocate
For Respondent /State :-Mr. Ravish Verma, G.A.
For Objector :-Mr. Vaibhav Shukla & Ms. Astha Shukla,
Advocate

Hon'ble Mr. Justice Prashant Kumar Mishra

CAV Order

1. Heard.
2. Since all the anticipatory bail applications are arising out of same crime number, they are being heard and decided by this common order.
3. The applicants have preferred these applications for grant of anticipatory bail, as they apprehend their arrest in connection with Crime No.409/2019, registered at Police Station Kotwali, Jagdalpur, District Bastar for offence punishable under Sections 109, 120-B, 406, 407, 408, 409, 420, 467, 468, 471 of the IPC.
4. Applicant Hira Lal Nayak was the Additional Collector whereas applicants namely; Siyaram Kurre was the Sub Divisional Officer; Dindayal Mandavi was the Deputy Collector; Arjun Shrivastav, was the Revenue Inspector; Dharam Narayan Sahu was the

Patwari; and Koushal Kumar Thakur was the Sub Registrar at the relevant point of time.

5. The prosecution case, in short, is that for Jagdalpur-Rawghat Rail Project a Memorandum of Understanding (MoU) was executed between the NMDC (National Mineral Development Corporation); SAIL (Steel Authority of India Limited); IRCON (Ircon International Limited, formerly known as Indian Railway Construction Limited); and CMDC (Chhattisgarh Mineral Development Corporation) in May, 2015 for construction of Jagdalpur-Rawghat-Dalli Rajhara Rail Line. The land for the project was to be provided by the Government of Chhattisgarh. For the required land, an area of about 28 hectares belonging to 108 land holders of four villages were acquired in Jagdalpur Block of District Bastar by awarding compensation of Rs.152.98 crores. In Bastar Block land ad-measuring 112 hectares in 17 villages were acquired by paying compensation of Rs.27.24 crores. The award was passed by the Additional Collector Hira Lal Nayak. After assessment of compensation and passing of award, it was published in daily Navabharat newspaper dated 19-7-2019 that in a scam involving land acquisition compensation for the subject project a sum of **Rs.250.00 crores** has been disbursed.
6. After the said newspaper report an enquiry was conducted by the Collector-cum-District Magistrate, Bastar, who submitted his report on 30-7-2019 finding that for the land falling in village Palli compensation has been assessed by treating the land belonging

to five land owners as urban land whereas for the other two land holders of the same village it has been assessed as rural land. Village Palli has never been included within the territorial limits of the Municipal Corporation, Jagdalpur and as a matter of fact the village Palli is part of a Gram Panchayat. Referring to various notifications issued by the Department of Urban Development, the Collector concluded that a Gram Panchayat has been constituted for villages Kumharawand & Palli and the limits of the Municipal Corporation, Jagdalpur, touches the eastern boundary of village Palli.

7. It was also stated in the report that two accused persons namely; Smt. Neelima Belsariya, wife of T.V. Ravi and Bali Nagvanshi, son of Buter Nagvanshi have purchased some land in 2008 & 2010 respectively, by paying stamp duty as rural land, but they have been assessed land acquisition compensation by treating their land as urban land. Bali Nagvanshi has been held entitled for compensation to the tune of Rs.70.62 crores (as urban land) instead of Rs.7.79 crores (as rural land) whereas Smt. Neelima Belsariya, wife of T.V. Ravi has been held entitled to Rs.25.19 crores (as urban land) instead of Rs.4.38 crores (as rural land). Similarly, Pakli, widow of Maniram and others along with Nagvanshi Builders & Developers, Partner Bali Nagvanshi have been held entitled to Rs.2.28 crores (as urban land) for a different khasra number instead of Rs.0.27 crores (as rural land). It is also mentioned that there are 15 holdings involving more than one khasra number, however, 13 holdings were treated cumulatively

for assessment of compensation whereas for the above two co-accused persons Smt. Neelima Belsariya, wife of T.V. Ravi and Bali Nagvanshi, son of Buter Nagvanshi each khasra number was treated separately for assessment of compensation. Thus, there is clear departure by the Halka Patwari, Revenue Inspector, Sub Registrar, Deputy Collector, SDO & Additional Collector while preparing compensation and passing the award for the above two accused persons causing hefty loss to the public exchequer. For initial calculation, the Patwari, Revenue Inspector & Sub Registrar have been found responsible whereas for passing an inflated award the Deputy Collector, SDO & Additional Collector have been held responsible. It was also found that the award of interest at the rate of 12% per annum was not in accordance with law.

8. Shri Siddharth Shukla & Shri Anchal Kumar Matre, learned counsel for the applicants would submit that the co-accused Suresh B. Matali & A.V.R. Murty have already been extended the benefit of Section 438 of the Cr.P.C. by order dated 28-11-2019 passed by this Court in MCRCA No.1407 of 2019 whereas Smt. Neelima Belsariya, wife of T.V. Ravi has been allowed anticipatory bail by order dated 16-6-2020, passed by this Court in MCRCA No.141 of 2020, therefore, these applicants are also entitled to be released on anticipatory bail. It is further argued that under Section 186 of the Railways Act, 1989 the applicants being delegated the power for acquisition of land under the said Act, they are protected from prosecution for any function

discharged in good faith while carrying on official duties. They would also submit that in arbitration proceedings the compensation has been further enhanced thus the compensation earlier assessed by the Land Acquisition Officer has been found to be correct and permissible.

9. On the other hand, learned counsel for the State and learned counsel for the objector would oppose the bail applications.

10. I have heard learned counsel for the parties at length and perused the case diary. Report of the Collector-cum-District Magistrate, Bastar dated 30-7-2019 is a part of the case diary. The FIR and the said report clearly reveal the manner in which the Government has been defrauded to the tune of about Rs.100.00 crores. Had the issue not being highlighted in the newspaper, the scam would not have been unearthed.

11. The applicants being the officers of the rank of Additional Collector, SDO, Deputy Collector & Sub Registrar as also the concerned Revenue Inspector & Patwari being at the helm of affairs in respect of maintaining the revenue records are presumed to be aware that the village Palli does not fall within the territorial jurisdiction of the Municipal Corporation, Jagdalpur yet the lands belonging to two accused persons were treated to be urban land for inflating the amount of compensation. It is not a case where the compensation has been enhanced to few lacs. The total compensation enhanced was to the tune of Rs.100.00 crores (approx.). The fact that for few land holders of village Palli the assessment of compensation has been done treating the

same as rural land and for others it has been treated as urban land, speaks volume about the *mala fide* and illegal action on the part of the applicants.

12. Co-accused persons who have been extended the benefit of Section 438 of the Cr.P.C. by the coordinate Bench of this Court were officers of the IRCON and one land holder. They were not involved in processing the land acquisition proceedings. Thus, their case is distinguishable than the case of the present applicants.

13. Anticipatory bail is not allowed to such individuals who commit fraud with the Public Exchequer. The present is a serious offence where the intention was to defraud the Government. Considering the whopping amount to the tune of Rs.100 Crores (approx) involved and the enormity and clandestine nature of whole exercise, this Court is not inclined to release the applicants on anticipatory bail.

14. Accordingly, all the anticipatory bail applications are rejected.

SD/-

(Prashant Kumar Mishra)
Judge

Gowri