

NAFR

HIGH COURT OF CHHATTISGARH, BILASPURMCRC No. 1426 of 2020

1. Dolnarayan Patel S/o Late Vijay Ram Patel Aged About 34 Years Resident Of House No. 69/1, Purani Basti, Ward No. 18, Tayang Jaimura Kharsia, District Raigarh Chhatisgarh
2. Khagpati Patel S/o Late Krishnachandra Patel Aged About 34 Years Resident Of House No.59 Uperpara, Bus Stand, Jaimura, Kharsia, District Raigarh Chhattisgarh.

---- Applicants

Versus

1. State Of Chhattisgarh Through The Station House Officer , Police Station Kharsia, District Raigarh Chhattisgarh.

---- Respondent

MCRC No. 7736 of 2020

1. Ram Kumar Sidar S/o Mahettar Sidar Aged About 47 Years R/o Village Jaimura, Thana And Tehsil Kharsiya, District Raigarh Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through Police Station Kharsiya, District Raigarh Chhattisgarh, Taluka Raigarh , District Raigarh Chhattisgarh.

---- Respondent

MCRC No. 7784 of 2020

1. Harinandan Dansena S/o Ramlal Aged About 56 Years R/o Village Sondka Wrongly Mentioned As Sodka, Tahsil Kharsia, District Raigarh Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through P.S. Kharsia, District Raigarh Chhattisgarh

---- Respondent

MCRC A No. 1470 of 2020

1. Pramod Kumar Rathore S/o Pawan Singh Rathore Aged About 54 Years R/o Village Halahuli, Tahsil Kharsia, District Raigarh Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through The Station House Officer, Police Station Kharsia, District Raigarh Chhattisgarh,

---- Respondent

MCRC A No. 1496 of 2020

1. Lal Kumar Nagvanshi Son Of Monu Ram Aged About 42 Years, R/o Village Sondaka, Tahsil And Police Station- Kharsiya, District - Raigarh (Chhattisgarh),
2. Bhanu Pratap Dansena Son Of Chudamani Aged About 42 Years Village Sondaka, Tahsil And Police Station- Kharsiya, District- Raigarh (Chhattisgarh)

---- Applicants

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station- Kharsiya, District- Raigarh (Chhattisgarh)

---- Respondent

MCRC A No. 1441 of 2020

1. Ramadhar Banzare S/o Hariram Banzare, Aged About 62 Years R/o Village - Zamura, Tehsil - Kharsia District, Raigarh, Chhattisgarh.

2. Ram Kumar Sidar S/o Mehatter Sidar, Aged About 49 Years
R/o Village Zamura, Tehsil - Kharsia District , Raigarh
Chhattisgarh.

---- Applicants

Versus

1. State Of Chhattisgarh, Through - Police Station - Kharisa,
District Raigarh Chhattisgarh.

---- Respondent

MCRC A No. 1574 of 2020

1. Tej Ram Patel S/o Shri Lal Patel Aged About 49 Years R/o
Village Zaimura, P. S. And Tehsil Kharsia, District Raigarh
Chhattisgarh

---- Applicant

Versus

1. State Of Chhattisgarh Through P. S. Kharsia, District Raigarh
Chhattisgarh

---- Respondent

MCRC A No. 1576 of 2020

1. Balabh Singh Rathia S/o Komo Singh Rathia Aged About 66
Years R/o- Village Basnajhar, P.S. And Tehsil Kharsia Distt.
Raigarh (Chhattisgarh)
2. Haldhar Dansena S/o Munubabu Dansena Aged About 50
Years R/o Amapali, P.S. And Tehsil Kharsia, Distt. Raigarh
(Chhattisgarh)
3. Budheshwar Dansena Singh Rathia S/o Komo Singh Rathia
Aged About 66 Years R/o- Village Basnajhar, P.S. And Tehsil
Kharsia, Distt. Raigarh (Chhattisgarh)
4. Gange Lal Sahu S/o Nehru Lal Sahu Aged About 43 Years
R/o- Basnajhar, P.S. And Tehsil Kharsia, Distt. Raigarh
(Chhattisgarh)

5. Bandhu Ram S/o Chitaki Ram Aged About 54 Years R/o Zamura, Thana And Tehsil Kharsia, Distt. Raigarh (Chhattisgarh)

---- Applicants

Versus

1. State Of Chhattisgarh Through P.S. Kharsia, District Raigarh (Chhattisgarh)

---- Respondent

For respective Applicants	Mr. Krishna Kumar Pandey, Mr. Kamlesh Kumar Pandey, Mr. P.R. Patankar, Mr. Sanjay Agrawal & Mr. Amit Sharma, Advocates
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For Respondent /State	Mr. Ravish Verma, Govt. Advocate
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Hon'ble Mr. Justice Prashant Kumar Mishra

Order On Board

7/1/2021

1. Since all the bail applications (six 438 & two 439) are arising out of same crime number i.e. Cr.No.386/2020 they are being considered and decided by this common order.

MCRC A Nos.1426, 1470, 1496, 1441, 1574 & 1576 of 2020

2. The applicants have preferred these bail applications for grant of anticipatory bail, as they apprehend their arrest in connection with Crime No.386/2020, registered at Police Station Kharsiya, District Raigarh (CG), for offence punishable under Section 409 read with Section 34 of the Indian Penal Code.

MCRC Nos.7736 & 7784 of 2020

3. The applicants have preferred these bail applications under Section 439 of CrPC, as they are arrested in connection with crime No.386/2020 registered at Police Station Kharsiya, District Raigarh, Raipur, for the offence punishable under Section 409 read with Section 34 of the Indian Penal Code.
4. As per the First Information Report (FIR) lodged by Food Inspector Shailendra Kumar Ekka, on 18-9-2020, the officers/employees of Adim Jati Sewa Sahakari Samiti Maryadit, Jaimura (henceforth 'the Society') and the elected office bearers of the Society have committed defalcation/misappropriation of paddy and gunny bags for the procurement season 2019-20 to the tune of Rs.89,82,325/- which equals to 3592.93 quintals paddy and gunny bags valued at Rs.19,05,332=20. In the said society, the paddy was procured at two procurement centers namely; Jaimura & Basnajhar.
5. Giving breakup of the shortage of paddy and gunny bags in these two centers, it was alleged in the FIR that on the basis of enquiry report submitted by committee of three officers namely; Shailendra Kumar Ekka, Food Inspector, M.L. Anant, Cooperative Extension Officer & Vijay Kumar Mehra, Supervisor, Apex Bank, Branch Kharsiya, it is found that the (i) Society Manager Pramod Kumar Rathore; (ii) Fadh Prabhari & Bardana Supervisor, Jaimura Procurement Center, Bhanu Pratap Dansena; (iii) Data Entry Operator, Jaimura, Khagpati Patel; (iv) Fadh Prabhari & Bardana Supervisor,

Basnajhar Procurment Center, Lal Kumar Nagvanshi; (v) Data Entry Operator Dolnarayan Patel; (vi) President, Vice President & Members of the Society are responsible.

6. Learned counsel appearing for the applicants would submit that the shortage of paddy was within the prescribed limit and for the same shortage recoveries were initiated against the employees and office bearers against which WPC No.2230 of 2020 was preferred before this Court which was disposed of by order dated 9-10-2020 with a direction to decide the matter in accordance with the agreement after seeking explanation from the concerned employees. It is, thus, submitted that the dispute is of civil nature, therefore, the applicants are entitled to be released on anticipatory bail and regular bail.
7. Relying upon the decision rendered by the Supreme Court in ***Siddharam Satlingappa Mhetre v State of Maharashtra & Others***¹, Shri Krishna Kumar Pandey, learned counsel for the applicants would submit that the applicants deserve to be released on anticipatory bail.
8. Shri Sanjay Agrawal & Shri P.R. Patankar, learned counsel appearing for the applicants in MCRC Nos.7736 & 7784 of 2020 would submit that these applicants have been arrested on 10-10-2020 & 1-10-2020, respectively and thus they are in detention since last more than 3 months, therefore, they are entitled to be released on regular bail.
9. Shri Ravish Verma, learned Govt. Advocate, appearing for the State, *per contra*, would oppose all the bail applications filed under Section 438 & 439 of the Cr.P.C. Learned counsel would submit that whopping defalcation has been committed

¹ 2011 (1) MPHT 439 (SC)

by the applicants, therefore, they are not entitled to be released on bail.

10. It is necessary to mention here that MCRC A No.1441 of 2020 in respect of Applicant No.2 Ram Kumar Sidar was dismissed as withdrawn by order dated 19-10-2020 and he has filed regular bail application bearing MCRC No.7736 of 2020, which is tagged with the present bunch of applications.
11. Having heard learned counsel for the parties and on perusal of the case diary, particularly the enquiry report, which, in turn, is based on documents available and physical verification done by the enquiry team, it appears the officers/employees/office bearers of the society are mainly responsible for committing misappropriation to the tune of Rs.89,82,325/- in relation to paddy and an amount of Rs.19,05,332=20 in relation to gunny bags.
12. Albeit the extent of role played by each of the accused is not reflecting in the enquiry report, but it is clearly mentioned that Pramod Kumar Rathore, Dolnarayan Patel, Lal Kumar Nagvanshi, Khagpati Patel, Bhanu Pratap Dansena and office bearers of the society are mainly responsible. Two office bearers namely; Smt. Sumti Bai Sidar, President and Tejram Patel, Vice President of the society have been specifically named in the report.
13. Smt. Sumti Bai Sidar, President of the society is not an applicant in any bail application in this batch. Out of the officers, employees and responsible office bearers of the society Pramod Kumar Rathore has preferred MCRC A No.1470 of 2020 whereas Lal Kumar Nagvanshi & Bhanu

Pratap Dansena have preferred MCRC A No.1496 of 2020; Dolnarayan Patel & Khagpati Patel have preferred MCRC A No.1426 of 2020; Vice President of the Society Tej Ram Patel has preferred MCRC A No.1574 of 2020. Against Tej Ram Patel another crime bearing Cr.No.492/2020 for offence under Section 406 read with Section 34 of the IPC has also been registered as informed by the learned State counsel. Thus, considering the contents of the enquiry report these anticipatory bail applications deserve to be dismissed.

14. Applicant Ramadhar Banzare, who has preferred MCRC A No.1441 of 2020 & applicants Balabh Singh Rathia, Haldhar Dansena, Budheshwar Dansena, Gange Lal Sahu & Bandhu Ram, who have preferred MCRC A No.1576 of 2020, are the members of the society. As per the enquiry report, they are also responsible for the affairs of the society, therefore, they are also not entitled to be released on anticipatory bail. Accordingly, these bail applications are also rejected.

15. MCRC Nos.7736 & 7784 of 2020 preferred by Ram Kumar Sidar & Harinandan Dansena are the applications under Section 439 of the Cr.P.C. These applicants are in detention since 10-10-2020 & 1-10-2020, respectively. The offence is triable by the Judicial Magistrate First Class. Therefore, considering all relevant aspects of the matters, these applicants are entitled to be released on regular bail.

16. Accordingly, MCRC Nos.7736 & 7784 of 2020 are allowed and the applicants namely; Ram Kumar Sidar & Harinandan Dansena are directed to be released on bail on each of them executing a personal bond for a sum of Rs.50,000/- with one surety in the like amount to the satisfaction of the trial Court.

They are directed to appear before the trial Court on each and every date given by the said Court.

17. In the result, all the six bail applications filed under Section 438 of the Cr.P.C. are rejected and two bail applications filed under Section 439 of the Cr.P.C. are allowed.

18. Certified copy as per rules.

Sd/-

(Prashant Kumar Mishra)
Judge

Gowri