

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5924 of 2021

1. Smt. Purnima Sahu W/o Shri Shankar Sahu Aged About 43 Years R/o Ward No. 04, Bhanpuri, Thana Khamtarai, District Raipur (C.G.).

----Applicant

Versus

1. State Of Chhattisgarh, Through Station House Officer, Police Station Jarhagaon, District Mungeli (C.G.).

---- Non-Applicant

For Applicants	:	Mr. Samir Singh, Advocate.
For Non-Applicant/State	:	Mr. Anand Verma, Dy, Govt. Advocate.
For Objector	:	Mr. S.P. Sahu, Advocate.

MCRC No. 6610 of 2021

1. Smt. Pratibha Mishra W/o Shri Shiv Shankar Mishra Aged About 42 Years R/o Pragati Hom, Rameshwar Nagar, Near Shiv Mandir Bhanpuri, Dharsiva, Birgaon, Raipur, Bindrawangarh, District Raipur (C.G.).

----Applicant

Versus

1. State Of Chhattisgarh Through The Station House Officer, P.S. Khamtarai, District Raipur (C.G.).

---- Non-Applicant

For Applicant	:	Mr. Atanu Ghosh, Advocate.
For Non-Applicant/State	:	Mr. Anand Verma, Dy, Govt. Advocate.
For Objector	:	Mr. S.P. Sahu, Advocate.

MCRC No. 5946 of 2021

1. P. Anusuiya Rao W/o Shri P. Mallesh Rao Aged About 37 Years R/o Vijay Nagar, Chathwa Talab, Bhanpuri, Police Station- Khamtra, District (Revenue And Civil)- Raipur (C.G.).

----Applicant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station- Khamtra, District- Raipur (C.G.).

---- Non-Applicant

For Applicant	:	Mr. Yogesh Chandra Pandey, Advocate.
For Non-Applicant/State	:	Mr. Anand Verma, Dy, Govt. Advocate.
For Objector	:	Mr. J.K. Gupta, Advocate.

MCRC No. 6855 of 2021

1. Mushtak Khan S/o Sher Khan Aged About 49 Years R/o Village Bagoud, Tahsil Kurud, District Dhamtari (C.G.).

----Applicant

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Khamtarai, Raipur, District Raipur (C.G.).

---- Non-Applicant

For Applicant	:	Ms. Fouzia Mirza, Sr. Counsel with Ms. Nikita Khanna, Advocate.
For Non-Applicant/State	:	Mr. Anand Verma, Dy, Govt. Advocate.
For Objector	:	Mr. S.P. Sahu, Advocate.

Hon'ble Shri Justice Gautam Chourdiya
Order On Board

14/09/2021

- 1) Heard.
- 2) Since all these applications arise out of the same crime number, they are being disposed of by this common order.
- 3) Applicants have filed these First Bail Applications under Section 439 of Code of Criminal Procedure, 1973 for grant of bail as applicants are in jail since 26/06/2021, 27/06/2021, 28/06/2021 & 09/07/2021 respectively in connection with Crime No. 379/2021, registered at Police Station Khamtarai, Raipur, District Raipur (C.G.) for the offence under Sections 420, 34 of Indian Penal Code.
- 4) As per the prosecution case, during the period of 01/03/2019 to 27/06/2021 the present applicants alongwith other co-accused persons on the allurement of providing gold at cheaper rate, fraudulently obtained a sum of Rs. 22,70,000/- from the complainant Sarita Kurre, Rs. 2,50,000/- from Nargis Sakre, Rs. 5,50,000/- from

Anita Verma and Rs. 1,70,000/- from Rama Chouhan and from others i.e. total sum of Rs. 35,17,000/-. On report being lodged to the above effect, the aforesaid offences have been registered against the accused persons.

- 5) Learned counsel for the applicants in all the applications submit that the applicants are innocent persons and have been falsely implicated in this case by the complainant Sarita Kurre. It is submitted that the main accused in this case is Kumkum Sahu @ Sunita. The said co-accused Kumkum Sahu @ Sunita has executed agreements with Sarita Kurre and Gayatri Kurre for returning their amount. It is submitted that victim Smt. Indu Singh and Smt. Nargis Sakhre have already been settled the matter with the applicant P. Anusuiya Rao outside the Court amicably and have no objection to her release on bail. Applicant Muushtak Khan has been falsely implicated whereas there is no allegation against him of cheating with the complainant/victims in the FIR. The applicants are in jail since 26/06/2021, 27/06/2021, 28/06/2021 & 09/07/2021 respectively, charge sheet has been filed and due to COVID-19 Pandemic conclusion of trial is likely to take some time for its disposal. Therefore, the applicants deserve to be released on bail.
- 6) On the other hand, learned counsel for the State as well as Objector opposes the bail applications.
- 7) Heard learned counsel for the parties.
- 8) As per the complainant Sarita Kurre co-accused Kumkum Sahu @ Sunita alongwith other co-accused persons came to her house in February 2019 and told that they would give gold at cheaper rates to her, on which the complainant replied that she would inform them after discussing with her family members. According to the complainant the accused persons were having 85 Tola gold which they agreed to sell at the rate of Rs. 28,000/- per Tola. For the first time in March 2019 complainant Sarita Kurre gave them Rs. 7 Lac for purchase of gold and they asked the complainant of giving her gold after 2-3 days. After about 3-4 days the accused persons came

to her house and informed that the gold has been pledged with Manappuram Finance and Muthoot Finance and the gold would be released only after payment of the entire consideration. On this the complainant gave the accused Rs. 14 Lacs who assured her of giving gold in the evening but they never returned. The accused persons in this way obtained Rs. 22,70,000/- from the complainant Sarita Kurre, Rs. 2,50,000/- from Nargis Sakhre, Rs. 5,50,000/- from Anita Verma and Rs. 1,70,000/- from Rama Chouhan and from others i.e. total sum of Rs. 35,17,000/-.

- 9) As per consent letter dated 15.6.2020 of co-accused Kumkum Sahu @ Sunita, she has admitted to have obtained Rs.6.50 lacs from Smt. Namrata Dubey, Rs.5 lacs from Pramila Sahu and Rs.5 lacs from Mukesh Sharma on the pretext of giving them gold and she agreed to return the said amount to them within six months. This consent letter has been executed in presence of the witnesses. One letter has also been submitted by co-accused Kumkum Sahu to the SHO, P.S. Khamtarai, Raipur that she has taken Rs.5 lacs from Smt. Anita Verma, out of which Rs.1 lac would be returned to her on 5.5.2020 and the remaining amount would be returned to her within next three months.
- 10) As per seizure memos annexed with the charge sheet, co-accused Kumkum Sahu has executed agreement dated 10.12.2019 with victim Smt. Gayatri Kurre and another agreement dated 3.12.2019 with complainant/victim Sarita Kurre whereby co-accused Kumkum Sahu has returned Rs. 4.50 lacs to Smt. Gayatri Kurre on 10.12.2019 and agreed to return Rs. 20.70 lacs within three months to Smt. Sarita Kurre.
- 11) In MCRC No. 5948/2021, notarized affidavits dated 24.7.2021 of victims Smt. Indu Singh and Smt. Nargis Sakhre have been filed which go to show that they have settled the matter outside the Court amicably and have no objection to release of applicant P. Anusuiya Rao on bail.
- 12) So far as applicant Mushtak Khan is concerned, there is nothing to

show that any amount was obtained by him from the victims and no any allegation was made against Mushtak Khan in the FIR also. As per Annexure A/5 in MCRC No.6855/21, elder brother of applicant Mushtak Khan made a complaint on 10.7.2021 to the Sr. S.P, Raipur regarding false implication of Mushtak Khan whereas he (Mushtak Khan) himself has been cheated by the accused persons by taking Rs.15.50 lacs from him by the accused persons. This fact has also been mentioned by co-accused Kumkum Sahu in her undertaking dated 18.9.2020 filed by counsel for the applicant with the covering memo.

- 13) Keeping in mind the aforesaid facts available in the case diary, in the totality of facts and circumstances of the case, the nature of allegations leveled against the applicants, the role attributed to them, the fact that it is main accused Kumkuk Sahu who had obtained money from the victims on the pretext of selling them gold at cheaper rates; co-accused Kumkum Sahu has executed agreements with the victims or consent letter/undertaking for returning their amount, some of the victims have already been returned their amount; the incident is of the year 2019 whereas the FIR was lodged on 27.6.2021; the detention period of the applicants; the fact that charge sheet has already been filed; nothing is required to be seized from the applicants; there is no criminal antecedents of the applicants; no apprehension is shown by the State counsel of their absconding or tampering with the witnesses/evidence and that due to COVID-19 pandemic conclusion of the trial is likely to take some time; 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, the applications are **allowed**. It is directed that in the event of **each** of the applicants executing a personal **bond** for a sum of **Rs. 4,00,000/-** with two sureties of Rs. 2,00,000/- each to the satisfaction of the concerned Trial Court, they 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 him from disclosing such fact to the Court,

- ii. they shall not act in any manner which will be prejudicial to fair and expeditious trial,
- iii. they shall strictly follow the COVID-19 protocol issued by the Central Govt./State Govt./Local Authority,
- iv. they shall not involve themselves in any offence of similar nature in future.

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 offence in future.

**-Sd/-
(Gautam Chourdiya)
Judge**

Chandrakant