

HIGH COURT OF CHHATTISGARH AT BILASPUR**MCRC No. 9317 of 2020**

Raju Nishad S/o Shri Mohit Ram Nishad, Aged about 39 years, R/o Village Ulkhar, P.S. & Tahsil Sarangarh, Distt. Raigarh, Chhattisgarh.

---Applicant (in jail)

Versus

State of Chhattisgarh, Through District Magistrate, Raigarh, Distt. Raigarh, Chhattisgarh.

--- Respondent

MCRC No. 9229 of 2020

Damrudhar Chandra S/o Late Shri Bhalucharan, Aged about 50 years, Caste Chandranahu, Occupation Krishi, R/o Ulkhar, Police Station and Tahsil Sarangarh, Distt. Raigarh, Chhattisgarh.

---Applicant (in jail)

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Sarangarh, Distt. Raigarh, Chhattisgarh.

--- Respondent

For Applicant in MCRC No. 9317/2020 :-

Mr. Sabhyasachi Bhaduri, Advocate

For Applicant in MCRC No. 9229/2020 :-

Mr. Raghvendra Pradhan, Advocate

For Respondent/State :-

Mr. Sunil Otwani, Addl. A.G.

Hon'ble Shri Justice Sanjay K. Agrawal

Order on Board

19/03/2021

1. Both of these bail applications, arising out of common crime No., have been heard together and are being disposed of by this common order.
2. These are first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants who have been arrested in connection with Crime No. 677/2020, registered at Police Station - Sarangarh, District Raigarh(CG), for offence punishable under Section 409 read with Section 34 of IPC.
3. Case of the prosecution, in brief, is that the applicant in MCRC No. 9317/2020 namely Raju Nishad, being the President of Sewa Sahkari Samiti Maryadit, Ulkhar in connivance with the applicant in MCRC No. 9229/2020 namely Damrudhar Chandra and other co-accused persons, who were in-charge of procurement of paddy in Ulkhar and Bardula Procurement Centres, caused irregularities and huge financial loss to the tune of ₹ 2,99,72,766.72/- and thereby, committed criminal breach of trust.

4. Mr. Sabhyasachi Bhaduri, learned counsel for the applicant in MCRC No. 9317/2020, would submit that the present applicant has not committed any offence and he has been falsely implicated in the crime in question. Applicant, being the President of the concerned Society, wrote several letters filed as Annexure A/4 requesting Mark-Fed to lift the excess quantity of paddy from the procurement centers but when his plea remained unheard by Mark-Fed he even filed WPC No. 1104/2020 (Raju Nishad v. State of Chhattisgarh) on 17/05/2020 which is still pending before this Court, yet paddy was not lifted and aforesaid offences have been registered against the present applicant and other co-accused persons. As such, it was the responsibility of Mark-Fed to lift the paddy from the procurement centers right on time and the applicant has even taken measures to rectify the alleged irregularity and inaction on the part of Mark-Fed which has not been undone despite several letters and requests made by the applicant. He would further submit that charge-sheet has ultimately been filed on 16/01/2021 and applicant and other co-accused persons are standing trial in which 19 witnesses have been cited as prosecution witnesses as such, trial is likely to take time and no custodial interrogation is required. He

would further submit that the applicant is in jail since 21/10/2020 and in view of the decisions rendered by the Supreme Court in the matters of **Sanjay Chandra v. Central Bureau of Investigation**¹ and **P. Chidambaram v. Directorate of Enforcement**² it is a fit case where the applicant may be enlarged the privilege of regular bail.

5. Mr. Raghvendra Pradhan, learned counsel for the applicant in MCRC No. 9229/2020, would submit that the case of the applicant herein is similar to that of Raju Nishad's and he would support the submission made by Mr. Sabhyasachi Bhaduri. He would also submit that the applicant herein is in jail since 23/10/2020 and no custodial interrogation is required and no purpose would be served by keeping the applicant in jail, as such, he deserves to be released on regular bail.

6. On the other hand, Mr. Sunil Otvani, learned Additional Advocate General, would submit that both the applicants have caused huge financial loss to the tune of ₹ 2,99,72,766.72/- by their irregular act with the process of procurement of paddy in the year 2019-20, as such, they are not entitled to be released on regular bail.

1 (2012) 1 SCC 40

2 (2020) 13 SCC 791

7. I have heard learned counsel for the parties, considered their rival submissions made herein-above and went through the records with utmost circumspection.

8. The applicant in MCRC No. 9317/2020 namely Raju Nishad was the President of Sewa Sahkari Samiti Maryadit, Ulkhar at the relevant point of time and it is correct to say that he has written several letters filed as Annexure A/4 to Mark-Fed for lifting the paddy which was in excess quantity. He also filed WPC No. 1104/2020 (Raju Nishad v. State of Chhattisgarh) seeking direction to Mark-Fed for lifting paddy, but despite that, the excess quantity of paddy is not said to have been lifted and thereby, huge financial loss to the tune of ₹ 2,99,72,766.72/- has been caused.

9. The fact remains that despite applicant Raju Nishad's repeated requests to Mark-Fed and despite filing of writ petition before this Court, the position did not improve and ultimately, the aforesaid offences were registered against the applicants and other co-accused persons on 09/10/2020 and applicant in MCRC No. 9317/2020 namely Raju Nishad was arrested on 21/10/2020 and the applicant in MCRC No. 9229/2020 namely Damrudhar Chandra was arrested on 23/10/2020 and

ultimately, charge-sheet has been filed on 16/01/2020 and since then, they are in custody and are standing trial for the aforesaid offences in which 19 witnesses have been cited as prosecution witnesses and still charges are yet to framed against them, as such, the trial is likely to take some time. It is not the case of the prosecution that further custodial interrogation is required.

10. Taking consideration of the nature of the allegation and further taking into account the conduct of one of the applicant namely Raju Nishad in informing Mark-Fed for lifting excess quantity of paddy and the act of filing a writ petition before this Court after which the aforesaid offences have been registered against the applicants and since investigation has already been completed and charge-sheet has been filed and no custodial interrogation is required and they have been in custody for about 5 months and considering that the trial is likely to take some time and further following the principle of law laid down by the Supreme Court in **Sanjay Chandra** (supra), it would be expedient to grant regular bail to both of the applicants.

11. Accordingly, both the bail applications are allowed.

12. It is directed that the applicants shall be released on bail on their furnishing a personal bond in the sum of **Rs. 1,00,000/- each** with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

13. Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

Harneet