



(Proceedings through video conferencing)

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 673 of 2021

- Prabhuram Verma S/o Late Shyamlal Verma, aged about 65 years (Retired Sub-Engineer), Public Works Department) at present R/o House No. 235, Jawahar Nagar, Durg, District Durg Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Police Station Baikunthpur, District Koriya (Baikunthpur), Chhattisgarh

---- Non-applicant

MCRCA No. 713 of 2021

- Kanhaiya Kumar Singh, S/o G.P. Rai, aged about 40 years R/o Koriya Kalri, Chirmiri, Thana and Tehsil - Chirmiri, District Koriya (Baikunthpur) (CG)

---- Applicant

Versus

- State of Chhattisgarh, Through, S.H.O., Police Station - Baikunthpur, District Koriya (Baikunthpur) [CG]

---- Non-applicant

MCRCA No.673/2021

For Applicant : Mr. Manoj Paranjpe, Advocate
For Non-applicant : Mr. Vimlesh Bajpai, Govt. Advocate

MCRCA No.713/2021

For Applicant : Mr. Awadh Tripathi, Advocate
For Non-applicant : Mr. Vimlesh Bajpai, Govt. Advocate

Hon'ble Mr. Justice Parth Prateem Sahu

Order On Board

15/7/2021

1. As above two anticipatory bail applications arise out of the same crime number, they are being heard together and disposed of by this common order.
2. Applicants have preferred above applications under Section 438 of CrPC for grant of anticipatory bail to them as they apprehend their arrest in connection with Crime No.86/2021



registered at Police Station Baikunthpur, Koriya for commission of offence under Sections 409, 420, 467, 468, 471/34 of IPC.

3. Case of the prosecution, in brief, is that one Chandraprakash sought some information under the Right to Information Act, 2005 with regard to BT Patch work under the office of Public Works Department, Baikunthpur of the year 2017-18. This work is for the work under Baikunthpur & Sonhat Tahsil. Based on the application, information as sought for by Chandra Prakash was given to him, in which he found certain overwriting in the column of kilometer of measurement book. He filed a complaint to concerned police station stating that there were manipulations in the measurement book and by this they have changed the place of road itself. The work was done under K.K. Singh and the work was certified by the Sub-Divisional Officer Prabhuram Verma. The police on the basis of complaint registered instant crime against present applicants.

4. Mr. Awadh Tripathi, learned counsel for applicant in M.Cr.C. (A) No.713/2021 would submit that only one information under the Right to Information Act, 2005 was supplied to the complainant in which correction was made at the time of process for payment for final bills. Correction is not made subsequently by present applicant or co-accused. He submits that repair works have been done in the year 2017-18 and after verification, the bills submitted by the Contractor concerned has also been paid. Complaint is lodged only in the year 2021 i.e. after lapse of three years. He further submits that at the time of preparing measurement book, due to some mistake, as the kilometer sign



was not available, wrong entries were made and on realizing said mistake, the measurement was again done from another side and thereafter correction has been carried out in the column of kilometers, as mentioned in the measurement book supplied under RTI to the complainant. He further submits that on the oral instruction of the then Sub-Divisional Officer, Baikunthpur the applicant got done the repairs work of roads of Baikunthpur tahsil. He also submits that out of two documents supplied to complainant, only one document bears seal and signature of authority concerned. Applicant is government servant and working in the Public Works Department, Baikunthpur. Hence, he may extended benefit of anticipatory bail under Section 438 of CrPC.

5. Mr. Manoj Paranjpe, learned counsel for applicant in M.Cr.C.

(A) No.673/2021 would argue that at the relevant point of time i.e. in the year 2017-18, present applicant was posted as SDO, PWD, Baikunthpur. He was superannuated from service in the month of March, 2018. As per his instruction, the payment has been made after due verification of work done based on measurement book submitted by concerned officer. He further submits that the measurement book, which is questioned by complainant, is with regard to patch/repair works of roads done in the year 2017-18. He further submits that even there is no allegation by the Department that the work for which payment was made, as per disputed measurement book, has not been done. He submits that there is no specific allegation of commission of any offence against present applicant. Hence,



he may be extended benefit of anticipatory bail under Section 438 of CrPC.

6. Mr. Vimlesh Bajpai, learned Government Advocate for the State would submit complainant has filed two copies of two sets of measurement book, one is provided to him under the RTI Act, 2005, but another does not bear seal and signature of any public authority issuing the same in accordance with law to complainant. He further submits that as per allegation, one KK Singh was not authorized to get executed the works within the area which is mentioned in the measurement book i.e. Tahsil Baikunthpur, and one Sanjay Bharil, Sub Engineer, PWD, Baikunthpur was authorized for the same. Upon putting a specific query to the State Counsel whether the work over the area as mentioned in measurement book filed along with complaint by the complainant was done or not before making payments, he submits that as per material available in case diary, the work was done by the contractor concerned.

7. I have heard learned counsel for the parties.
8. Taking into consideration the nature of allegations made by the complainant based on two sets of measurement books of one work, out of which only one set is supplied under the RTI Act, 2005 and other one does not bear seal and signature of any authority issuing it, patch/repair work of roads was admittedly done in the year 2017-18, as submitted by learned State Counsel, without commenting anything on the merits of case, I am of the view that present is a fit case where applicants



should be granted anticipatory bail.

9. Accordingly, both the applications are allowed and it is directed that in the event of arrest of applicant- **Prabhuram Verma** and **Kanhaiya Kumar Singh** in connection with crime in question, they shall be released on anticipatory bail by the officer arresting them on their executing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the Arresting Officer. The applicants shall also abide by following conditions :

- (i) that they shall make themselves available for interrogation before the Investigating Officer as and when required;
- (ii) that they shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of case so as to dissuade him/her from disclosing such facts to Court or to any police officer;
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

roshan/-