

(2015) 08 CHH CK 0014

In the Chhattisgarh High Court

Case No : M.Cr.C. (A) Nos. 975 and 986 of 2014

Sampurnanand Singh and Others

APPELLANT

Vs

State of C.G. and Others

RESPONDENT

Date of Decision : 14-08-2015

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 438, 482

Penal Code, 1860 (IPC) — Section 120-B, 406, 409, 420, 463

Citation : (2015) 4 CGLJ 384

Hon'ble Judges : Sanjay K. Agrawal, J.

Bench : Single Bench

Advocate : Satish Chandra Verma, Advocate, for the Appellant; Anupam Dubey, Dy. Govt. Advocate, for the Respondent

Final Decision : Allowed

Judgement

Sanjay K. Agrawal, J.—Since both the above two applications arise out of the same Complaint Case No. 87/2010 pending before the Court of Judicial Magistrate First Class, Ambikapur, District Surguja, Chhattisgarh, registered at Police Station Ambikapur, District Surguja, therefore, they are being heard and disposed of by this common order. Apprehending arrest in connection with Complaint Case No. 87/2010, registered at Police Station Ambikapur, District Surguja (C.G.), for the offence punishable under Sections 420 , 468 , 471 , 406 of Indian Penal Code (hereinafter referred to as "the IPC"), the applicants have filed these applications under Section 438 of the Cr.P.C. for grant of anticipatory bail.

2. In a complaint filed by respondent No. 2-Atul Dubey for commission of offence punishable under Sections 463 , 464 , 468 , 469 , 471 , 420 & 120-B of the IPC, the trial Court took cognizance against Krishnanand Singh, Smt. Shikha Singh and present applicants by order dated 24/07/2010 for the offence punishable under Sections 420 , 468 , 471 & 406 of the IPC.

3. Mr. Satish Chandra Verma, learned counsel appearing for both the applicants

would submit that in a complaint filed before the learned Judicial Magistrate only allegation against the present applicants are that on 05/05/2008, co-accused-Krishnanand Singh and his wife Smt. Shikha Singh prepared forged consent letter, in which, present applicants signed as a witness knowing fully well that the consent letter is forged. He would further submit that applicants are not the Directors of said Company and they are said to be witnesses only and they are not related to the affairs of the Company. He would further submit that one of the co-accused Smt. Shikha Singh who alleged is have prepared forged consent letter has been enlarged on anticipatory bail vide order dated 24/06/2014 by the trial Court and that order become final as non-applicant/complainant has not challenged that order, as such, the case of the present applicants stand on better footing than the co-accused-Smt. Shikha Singh who is alleged to be the maker of the said forged document and enlarged on anticipatory bail, therefore, on the principle of parity, applicants are entitled to be released on anticipatory bail.

4. Mr. Verma, learned counsel on the merits of case would submit it is case of the complainant that on the date of preparation of the consent letter dated 05/05/2008, complainant along with his wife Smt. Meena Dubey was at Delhi and as such, he was not present at the place of preparing the consent letter, whereas in the Civil Suit No. 1-A/2010 filed by co-accused/Krishnanand Singh and Smt. Shikha Singh, wife of the complainant Meena Dubey is a defendant No. 2 and in the said civil suit, she has filed a written statement on 07/04/2010, in which, she has stated that Atul Dubey gave his consent and accordingly consent letter dated 05/05/2008 was prepared and the complainant was present in the meeting; therefore, it cannot be said that the document is forged document, as such, applicants are alleged to be the witness of the said consent letter are entitled to be released on anticipatory bail.

5. On the other hand, learned counsel for the State/non-applicant No. 1 and learned counsel for the non-applicant No. 2 would submit that applicants are not only witnesses to the said forged consent letter but also they were knowing fully well that the consent letter is forged, they have signed the consent letter as a witness. They would further submit that written statement filed by his wife in the said civil suit on 07/04/2010 and before that divorce between applicant and his wife took place in the year 2009, and therefore, in order to support the other co-accused persons and applicants, such a written statement was got filed by other accused persons through complainant's wife Smt. Meena Dubey. They would further submit that initially the complainant has lodged FIR against co-accused-Krishnanand Singh and his wife Smt. Shikha Singh for commission of offence under Section 409 of IPC on 21/08/2008 in the Police Station Ambikapur and in order to get rid and to prepare a defence, co-accused Krishnanand Singh and Smt. Shikha Singh has prepared forged consent letter dated 05/05/2008 in which present applicants stood as witness, therefore, they are not entitled for anticipatory bail.

6. I have heard learned counsel appearing for the parties and perused the

original record relating to aforesaid case with utmost circumspection.

7. It is not in dispute that the consent letter dated 05/05/2008 was alleged to have been prepared by co-accused Krishnanand Singh and Smt, Shikha Singh, which is apparent from paragraph four of the complaint filed by complainant. It is also not in dispute that present applicants are alleged to be witnesses in the said consent letter dated 05/05/2008. It is also not in dispute that one of the applicant Sampurnanand Singh (in M.Cr.C.(A) No. 975/2014) is not a Director of the Company. It is also admitted position on record that Smt. Shikha Singh, wife of co-accused Krishnanand Singh has been enlarged on anticipatory bail vide order dated 24/06/2014 by the trial Court and it has become final. It is also apparent that in petition filed under Section 482 of the Cr.P.C. by co-accused Smt. Shikha Singh in Cr.M.P. No. 429/2014 against order dated 26/04/2014 passed by revisional Court, this Court has entertained the said proceeding for quashing and the further proceeding in the criminal case No. 87/2010 against co-accused Shikha Singh has been stayed and it is stated at the bar interim order is operative till this date.

8. It is also apparent from the record that complainant has claimed that he and his wife was not present at Ambikapur when the said consent letter alleged to be executed by him on 05/05/2008, whereas in a civil suit No. 1-A/2010 filed by co-accused Krishnanand Singh and Smt. Shikha Singh, complainant's wife Smt. Meena Dubey has been impleaded as defendant No. 2 and she has not supported the case of the complainant herein and stated that the consent letter was executed on 05/05/2008 by the complainant-Atul Dubey.

9. In Anwar Ali Vs. State of Chhattisgarh, , their Lordships of the Supreme Court has held that co-accused charged of holding forged registration certificate, having been granted bail, other co-accused is entitled for anticipatory bail by observing as under:--

"5. We have heard learned counsel for the parties. It is not in dispute that Unush Ali, who is uncle of the appellant, is the owner of the car, which was handed over to the appellant for getting the Registration Certificate from the R.T.O., Durg. The Registration Certificate and other papers of the car were handed over by Unush Ali to the appellant. It is not in dispute that co-accused Bunty @ Shahid, who is said to be an agent of the R.T.O., has been granted bail by the High Court on 01.10.2007. The evidence collected by the Investigating Officer against the appellant and Bunty @ Shahid is identical. The appellant is in jail since 14.06.2007. The learned counsel for the State was not in a position to state in regard to the stage of the trial of the case registered against the appellant and co-accused. The custody of the appellant is not required by the Investigating Officer for further interrogation."

10. Taking into consideration the facts and circumstances of the case; further taking into consideration the nature and gravity of offence; taking into account the fact that present applicants are only alleged to be witnesses to the said

forged consent letter dated 05/05/2008; applicant Sampurnanand Singh admittedly is not a Director of the said company; the fact that one of the co-accused Smt. Shikha Singh, who is said to have prepared forged consent letter dated 05/05/2008, has already been enlarged on anticipatory bail by the trial Court vide order dated 24/06/2014 and that order has not been even challenged by the complainant and it is become final; not only this, co-accused Smt. Shikha Singh was filed petition under Section 482 of the Cr.P.C., which is entertained by this Court and further proceeding of the criminal case against her has been stayed pending hearing before this Court and keeping in view the law laid down by their Lordships of the Supreme Court in Anwar Ali Vs. State of Chhattisgarh, ; which is applicable to the facts of instant case as co-accused Smt. Shikha Singh who is said to have prepared the forged consent letter has already been enlarged on anticipatory bail, and the case of applicants stand on better footing than co-accused Smt. Shikha Singh and taking into account the written statement filed by complainant's wife, in which, she has not supported the case of the complainant that no such consent was given by complainant-Atul Dubey; the civil suit is pending; role of the present applicants in offence in question as they have only said to have signed as a witness in the said forged consent letter; and further taking into the fact that this is complaint case, which is pending consideration before the trial Court; this Court is of the opinion that present is the fit case, in which, the applicants should be enlarged on anticipatory bail.

11. Accordingly, the anticipatory bail applications (M.Cr.C.(A) Nos. 975/2014 & 986/2014) filed under Section 438 of the Cr.P.C. are allowed.

12. It is directed that in the event of arrest of the applicants, namely, Sampurnanand Singh and Irshad Khan, in connection with the aforesaid offences, they shall be released on bail by the Officer arresting them on each of them executing a personal bond in sum of Rs. 25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating/Arresting Officer. The applicants shall also abide by the following conditions:

(i) that they shall make themselves available for interrogation before the concerned Arresting/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 the case so as to dissuade him/her from disclosing such facts to the 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 also appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Record of the trial Court be sent back forthwith.