

(2020) 08 CHH CK 0046
In the Chhattisgarh High Court
Case No : MCRCA No. 3, 58 Of 2020

Vijay Kumar Agrawal And Ors

APPELLANT

Vs

Union Of India

RESPONDENT

Date of Decision : 21-08-2020

Acts Referred:

Indian Penal Code, 1860 — Section 120B, 420, 467, 468, 471, 477(A), 511
Prevention Of Corruption Act, 1988 — Section 13(1)(d) , 13(2)

Citation : (2020) 08 CHH CK 0046

Hon'ble Judges : Prashant Kumar Mishra, J

Bench : Single Bench

Advocate : Pragalbh Sharma, Shobhit Mishra, B. Gopakumar

Final Decision : Allowed

Judgement

@JUDGMENT-JUDGMENT

Prashant Kumar Mishra, J

1. The aforesaid bail applications are being disposed of by this common order as they arise out of FIR No/Crime No.RC1242016A0001(dated 4.3.2016), registered at Police Station Central Bureau of Investigation, ACB, District Raipur for offences punishable under Sections 120B/420, 467, 468, 471, 477 (A) & 511 of the IPC and Section 13 (2) read with Section 13 (1)(d) of the Prevention of Corruption Act.

2. Applicant Vijay Kumar Agrawal is the Railway Contractor, who executed the contract for repair of platform and laying of third line in a particular section. According to the prosecution, the contractor was paid Rs.1,02,18,605.35/- without completing the work and the officers of the SECR namely, Kalicharan Panigrahi & Ashok Kumar Dom, who are applicants in MCRCA No.58/2020, have colluded and conspired with the contractor to allow him to take illegal payment without performing the work. The crime was registered in the year 2016, however, charge sheet has been filed on 3.12.2019.

3. It is argued that the applicants have always cooperated with the investigation and were in fact present before the trial Court on 29.11.2019 upon information from the CBI that since the charge sheet is to be filed on the said date, they are required to be present before the Court. For the reasons best known to the CBI, the charge sheet was not filed on that date, therefore, the applicants are apprehending that they may be arrested.

4. In course of hearing of these bail applications, this Court directed the CBI to file affidavit as to why the applicants were not arrested when they appeared before the trial Court and as to whether it intends to have custodial interrogation of the present applicants. Despite opportunities the CBI has not filed the affidavit. In the circumstances, this Court proceeds to decide the bail applications on merits.

5. Shri B. Gopakumar, learned ASG would submit that there is no dispute that the applicants have cooperated with the investigation, however, they would still require the applicants to appear before the trial Court and seek regular bail.

6. Having heard learned counsel for the parties, this Court is inclined to release all the applicants on anticipatory bail for the reasons that the crime was registered in the year 2016 and investigation continued till December, 2019 when charge sheet was filed and during all this period, the applicants have cooperated with the investigation. Moreover, they were present before the trial Court on 29.11.2019 when the CBI informed them that the charge sheet shall be filed on the said date, however, the CBI did not file the charge sheet on the said date but choose to file it on a later date. The mere fact that the CBI did not arrest the applicant in course of investigation manifests that their custodial interrogation is not required. While the applicant, Vijay Kumar Agrawal is the contractor, the other applicants namely, Kalicharan Panigrahi and Ashok Kumar Dom are the officers of the SECR. There is no apprehension of their absconding to avoid trial.

7. In view of the above discussion, both the bail applications are allowed and it is directed that in the event of arrest of the applicants, they shall be released on anticipatory bail on each of them executing a personal bond for a sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the arresting officer with the following conditions:-

(i) they shall not influence the witnesses during trial.

(ii) they shall make themselves available for interrogation by a police officer as and when required;

(iii) 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 facts to the Court or to any police officer.