



NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 243 of 2023**

- Nidhan Singh Kushwaha S/o Late Shri R.D. Singh Kushwaha Aged About 61 Years, Posted as a Assistant Director Horticulture At District Gorella Pendra Marwahi (G P M), Chhattisgarh.

---- Petitioner

Versus

- State Of Chhattisgarh Through, S H O Mahasamund, District Mahasamund, Chhattisgarh.

---- Respondent

MCRCA No. 244 of 2023

- Satish Jindal @ Satish Agrawal S/o Om Prakash Jindal, Aged About 56 Years Proprietor M/s Jai Gurudev Resident Of 2273, Sahkari Marg, Near B S N L Telephone Exchange, Choubey Colony Raipur, Tehsil Raipur, District : Raipur, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through The Station House Officer Police Station Mahasamund, District : Mahasamund, Chhattisgarh

---- Respondent

For Applicant (MCRCA No.243/2023)
For Applicant (MCRCA No.244/2023)
For Respondent/State

For Objector

Mr. BP Singh, Advocate
Mr. Manish Nigam, Advocate
Mr. Avinash K. Mishra,
Government Advocate
Mr. Krishna Tandon, Advocate

SB.: Hon'ble Mr. Justice Deepak Kumar Tiwari
Order On Board

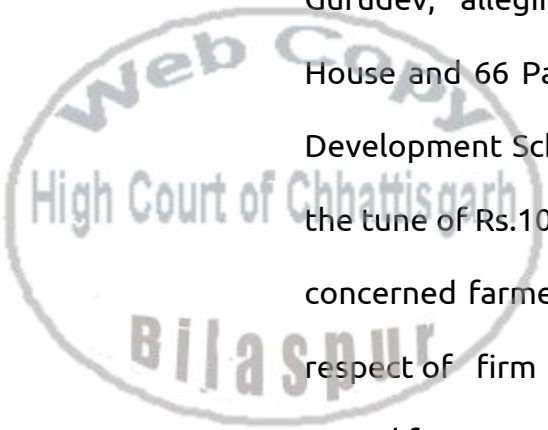
2/5/2023

- 1 Heard.
- 2 These are the two applications filed under Section 438 of the Code of Criminal Procedure for grant of anticipatory to the applicants, who are



apprehending their arrest in connection with Crime No.39/2023 registered at Police Station Mahasamund, District Mahasamund (CG) for the offence under Sections 409, 420, 120B, 34 of the IPC.

- 3 Prosecution case, in brief, is that RS Verma, Incharge Assistant Director (Horticulture), District Mahasamund lodged an FIR on the basis of an enquiry report submitted by the concerned Department on the complaint of Parliament Secretary namely Mr. Vinod Sevan Lal Chandrakar against applicant - Nidhan Singh Kuchwaha, the then Assistant Director (Horticulture), Jignesh Patel, Proprietor of M/s. Kishan Agrotech and Mr. Satish Jindal (applicant), Proprietor of M/s. Jai Gurudev, alleging that for construction of 17 Shed Net House/Green House and 66 Pack House/Poly House, under the National Agriculture Development Scheme sponsored by the NABARD, a subsidy amount to the tune of Rs.107.178 lakhs was withdrawn in an irregular manner. The concerned farmers produced vouchers regarding grant of payment in respect of firm - M/s. Kishan Agrotech and the same was also taken on record for entry of the stockholder. However, it is alleged that though the bill with regard to above payment was passed by applicant – Nidhan Singh Kushwaha, but the payment was made to the Proprietor (Satish Jindal - applicant) of another firm i.e. M/s. Jai Gurudev. On enquiry, it was found that for a single farmer, only one net house was constructed and that too by two firms and thereby, the applicants' in a fraudulent manner, committed irregularity by not depositing GST in the account(s) of the Central and State Governments. Based upon which, the offence has been registered.
- 4 Learned counsel for the respective applicants submit that the applicants have not caused any loss to the Government and its





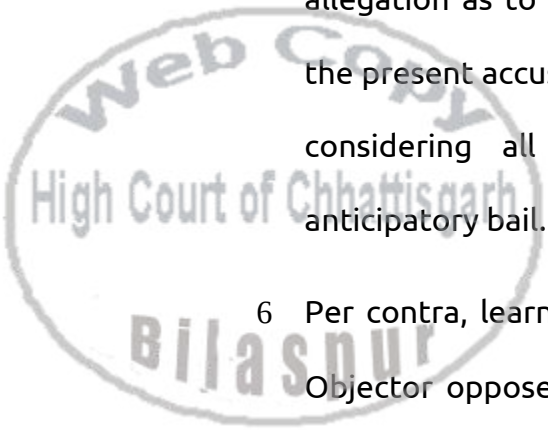
beneficiaries. They would further submit that for construction of only one shed, subsidy was given, which was directly deposited in the beneficiaries' accounts and thereafter, the beneficiaries placed the order to the concerned firms.

5 Learned counsel for the applicant in MCRC No. 244 of 2023 would submit that the firm of applicant - Satish Jindal namely M/s. Jai Gurudev has paid the GST for the year 2020 and the said fact is reflected from the letter issued by the Director (Horticulture) dated 17.11.2022 and further, the relevant GST return has also been filed by the said firm. He would also submit that in the entire complaint and FIR, there is no allegation as to how much loss has been caused and in what manner, the present accused has defrauded the State or its beneficiaries. Hence, considering all these aspects, the applicants may be granted anticipatory bail.

6 Per contra, learned counsel for the State and learned counsel for the Objector oppose the submissions. However, on being asked, learned counsel for the objector failed to demonstrate as to how much loss has been caused to the State from the amount released in the subsidy. He also failed to submit any letter sent to the concerned GST Department for necessary recovery against the defaulter. Learned counsel for the State would submit that the fact with regard to any information collected from the GST authorities, is not available in the case diary and even in the Departmental Enquiry Report, no such input was gathered.

7 Having considered the submission, the nature of accusation and the quality of evidence, I am inclined to extend the benefit of Section 438 of the Cr.PC to the applicants.

8 Accordingly, the bail applications are allowed and it is directed that in





the event of arrest of the applicants, they shall be released on bail on each of them furnishing a personal bond in the sum of Rs.50,000/- with one surety each in the like sum to the satisfaction of the arresting officer on the following conditions:-

(a) they shall make themselves available for interrogation by the concerned police officer as and when so required,

(b) 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 or to any police officer,

(c) they shall not act in any manner which will be prejudicial to fair and expeditious trial,

(d) after filing of the charge sheet, he shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial,

(e) they shall not involve themselves in any offence of similar nature in future.

Certified copy as per rules.

Sd/-

(Deepak Kumar Tiwari)
Judge

Shyna

