

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 790 of 2017

- Harishankar Das Bairagi S/o Shri Mahaveer Das Bairagi, Aged About 22 Years, Caste - Gosai, R/o Village - Ghumra, Police Station Tapkara, Tahsil Farsabahar, District Jashpur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Sitapur, District Surguja, Chhattisgarh.

---- Non-applicant

And

MCRC No. 1352 of 2017

- Bhanupratap S/o Bindeshwar, Aged About 30 Years, R/o Village Devgarh, Police Station and Tahsil Sitapur, District Surguja, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through: Station House Officer, Police of Police Station Sitapur, District Surguja, Chhattisgarh.

---- Non-applicant

For Applicant – Shri A.K.Prasad, Advocate (in MCRC No.790/2017)
Shri Anil Gulati, Advocate (in MCRC No.1352/2017)
For Non-applicant/State – Shri Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

23-10-2017

1. Both these applicants are accused in Criminal Case No.03/2017 pending before the JMFC Sitapur, District Surguja, hence both the applications are decided by this common order.

2. It is submitted on behalf of the applicants that this is their first bail application. it is submitted that the applicants have been falsely implicated in the case. They have been arrested and detained in Crime No.178/2016 registered at P.S. Sitapur, Distt. Surguja, C.G. for the offence under Section 420, 120B, 467, 384, 508, 34 of the IPC. Their period of detention is more than

one year. The charge sheet in the case has been filed and the trial has commenced. The trial of the case is likely to take some time and the applicants are hopeful in succeeding in the case, hence prayed for grant of bail. It is also submitted that there had been dispute of some transaction of Rs.12,000/- because of which the complainant has falsely implicated the applicants, hence, prayer has been made for enlargement on bail.

3. Learned counsel for the State/non-applicant opposes the bail applications and submission made in this respect. It is submitted that there is clear evidence from the statement of the witnesses and other documentary evidence that the applicants with other co-accused have enticed and cheated the complainant on various occasions making him deliver a total amount of Rs. 35,00,000/- and the role of the applicants in this offence of cheat is very obvious. Hence, they are not entitled for grant of bail.

4. Learned counsel for the applicants further submit that a compromise was arrived at between the complainant and the accused persons which has been enquired by the concerned police station and a report has been submitted before the S.P. Jashpur on 07-06-2016 that the dispute between the parties is no longer exist.

5. Learned counsel for the State/non-applicant further submits that by order of this Court, documents regarding compromise have been verified and report dated 14-07-2017 has been received in the office of the Advocate General. According to this report, the so called compromise is allegedly a false compromise and the documents regarding that were forcefully executed from the complainant. Hence, this cannot be made ground for granting any relief to the applicants.

6. Heard learned counsel for the parties and perused the case diary.

7. As per the contents of the case diary, the case against the applicants is

that daughter of the complainant Kaleshwar Paikara was suffering from some disease. When applicant Bhanupratap advised him to take treatment by witchcraft and introduced accused Mahaveer Das, Harishankar, Vishram Das and Ramashankar, the main accused Mahaveer Das performed the witchcraft and by putting the complainant under fear extorted from him on various occasions amount to the tune of Rs.35 lacs. On the information given by the complainant Kaleshwar Paikara the case has been registered, investigated and chargesheeted.

8. On perusal of the case diary role of applicant Bhanupratap to be limited, whereas, the allegation of multiple cheating, extortion etc. is against Harishankar and others. Looking to these facts and circumstances of this case, applicant Bhanupratap deserves to be enlarged on bail, whereas, the application filed by applicant Harishankar Das Bairagi does not deserve to be allowed at this stage.

9. Consequently, the application (MCRC No.790/2017) filed under Section 439 of the Cr.P.C. by applicant Harishankar Das Bairagi is hereby dismissed. The application (MCRC No.1352/2017) filed under Section 439 of the Cr.P.C. by applicant Bhanupratap is hereby allowed. It is directed that applicant Bhanupratap shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge