

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 2727 of 2017

- Karan Singh Karasolia S/o Late Misari Lal Karasolia, Aged About 55 Years, R/o B-73, Adityapuram, Gwalior, Madhya Pradesh. At Present R/o Kharsia, District Raigarh, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Chakradhar Nagar, Raigarh, District Raigarh, Chhattisgarh.

---- Non-applicant

and

MCRCA No. 334 of 2017

- Jeetambar Patel S/o Late Bhagirathi Patel, Aged About 46 Years, Caste Aghariya, Occupation Civil Contractor, R/o Risora, Police Station Sariya, Tahsil Baramkela, District Raigarh, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Chakradhar Nagar, District Raigarh, Chhattisgarh.

---- Non-applicant

For Applicant – Shri R.K.Kesharwani, Advocate (in MCRC No.2727/2017).
Shri Roop Naik, Advocate (in MCRCA No.334/2017)
For Non-applicant/State – Shri Om P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Chandra Bhushan Bajpai

Order on Board

10-07-2017

1. As both the matter arise out of the same crime number and incident, they are being disposed of by this common order.
2. None of the parties has any information whether co-accused Sukhlal Sahu had ever preferred any MCRC which is pending or disposed of as said Sukhlal Sahu is also shown arrested on 1st of April, 2017.
3. Learned counsel for the applicants would submit that earlier absconding co-accused Sudhir Patel has preferred MCRCA No.379/2017 which was dismissed on merit vide order dated 17-05-2017 by the coordinate Bench. Applicant Karan Singh Karasolia had preferred MCRCA No.631/2016 which

was dismissed by the coordinate Bench vide order dated 04-08-2016 on its merit. Thereafter, applicant Karan Singh Karasolia filed repeat bail application MCRCA No. 61/2017 which was dismissed vide order dated 31 January 2017 where in absence of new fact coordinate Bench dismissed the second anticipatory bail application.

4. Heard the matter finally.

5. Learned counsel for applicant Karan Singh Karasolia would submit that the applicant is arrested on 31 March 2017 connection with Crime No.179/16 by P.S. Chakradhar Nagar, Raigarh, District Raigarh, C.G. for the offence under Section 420, 467, 468, 471, 120B of the IPC and Section 13(1), 13(2)(d) of the Prevention of Corruption Act, 1988 (in short 'the Act, 1988'). The applicant had not committed any act of embezzlement. Whatever mistake or wrong there is committed by the In-charge, Tender Cell and as per Annexure A/3, the applicant had not committed any wrong and there is no any allegation that he had earned illegally from the said act. The applicant is innocent, he is Class II Gazetted Officer. There is no any possibility that he may abscond, looking to the long detention, he may be granted bail as charge sheet has been filed and the trial may take some time.

6. Learned counsel for applicant Jeetambar Patel would submit that he shown in the said charge sheet as absconding. The trial Court has issued warrant of arrest. The offences as aforementioned regarding applicant Karan Singh Karasolia are also registered against the present applicant. Present applicant Jeetambar Patel is a contractor as per Annexure A/3. He took part in the tender by invitation. He had not committed any wrong. His case is distinguishable from absconding co-accused Sudhir Patel whose anticipatory bail petition was dismissed by the coordinate Bench. As called he had submitted the tender in sealed cover. Total 4 persons took part in the said tender. Regarding item No.2, 3 and 4 there is no any complaint, as the rate of

the tender of the present applicant was lowest, he has been granted tender for item No.2, 3 and 4. Police had not made co-accused Om Prakash Dubey. There is no any complaint against the present applicant in statement under Section 161 of the Cr.P.C. recorded during investigation of complainant Amarnath Agrawal and Om Prakash Dubey. Hence, he may be granted anticipatory bail. He further submitted that provisions of the Act, 1988 is not applicable for the present applicant and during pendency of the matter the charge sheet is filed before the concerned Court.

7. Per contra, learned counsel for the non-applicant/State opposed the argument advanced on behalf of the applicants on the basis of the facts and evidence collected during investigation.

8. Perused the entire material.

9. Perused the observation made by the coordinate Bench in para 5 in MCRC No.379/2017 (Sudhir Patel V. State of Chhattisgarh) in order dated 17-05-2017 and also after consideration of the observation of the coordinate Bench in para 5 of the order dated 04-08-2016 passed in the MCRC No.631/2016 (Karan Singh Karasolia V. The State of Chhattisgarh) which are reproduced here:-

Para 5 of the order dated 17-05-2017 passed in MCRC No.379/2017

(Sudhir Patel V. State of Chhattisgarh)-

"5. Taking into consideration the entire facts and circumstances of the case, particularly accepting the fact that the petitioner was one of the major beneficiaries from the said work got done by the Executive engineer, this Court is of the opinion that there appears to be prima facie strong materials against the applicant dis-entitling him for the benefit of Section 438 of CrPC."

Para 5 of the order dated 04-08-2016 passed in MCRC No.631/2016

(Karan Singh Karasolia V. The State of Chhattisgarh)-

"5. Perused the case diary and the documents. The case diary shows that disputed tender which was bearing G.No.12124 and

12154 with respect to P.H.E., Raigarh were never issued by the Publication Department and primary enquiry paper shows that the applicant along with other person have manipulated the seal and the documents. Considering the facts and circumstance of the case, it is not a case, where the benefit of Section 438 of Cr.P.C. can be extended. Therefore, I am not inclined to grant anticipatory bail to the applicant."

also after consideration of the entire material, the enquiry report and the substances surfaced against both the applicants, I am not inclined to grant regular bail to applicant Karan Singh Karasolia and anticipatory bail to applicant Jeetambar Patel. Consequently, MCRC No. 2727 of 2017 and the MCRC No. 334 of 2017 both are hereby dismissed.

10. As submitted on behalf of applicant Jeetambar Patel that he intends to surrender before the concerned Court and also intends to file an application for consideration of bail under Section 439 of the Cr.P.C. and prayed that the trial Court may be directed to disposed of the same as expeditiously as possible.

11. As prayed, if applicant Jeetambar Patel surrenders before the concerned Court and if he files any petition of his release on bail, the Court below is directed to decide the same on its merit as expeditiously as possible.

Sd/-

(Chandra Bhushan Bajpai)
Judge