

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6843 of 2017

- Ashish Sinha S/o A.K.Sinha, Aged About 37 Years R/o H 02/97, Narmada Nagar, Bilaspur, Tahsil And District Bilaspur Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station New Rajendra Nagar, Raipur, District Raipur, Chhattisgarh.

---- Respondent

And

MCRC No. 6903 of 2017

- Ashish Sinha S/o A. K. Sinha, Aged About 37 Years R/o H 02/97, Narmada Nagar, Bilaspur, P. S. Civil Line, Tahsil & District Bilaspur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, P. S. City Kotwali, Korba, District Korba Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Hemant Gupta, Advocate.
For Respondent/State	:	Mr. Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

24/11/2017

1. As both the applications relate to the applicant and to the similar incidents, hence, they are being decided by this common order.
2. Both the above applications are first bail applications filed under Section 439 of the Code of Criminal Procedure, for grant of regular bail

to the applicant who has been arrested in connection with Crime No. 121/2017, registered at Police Station- New Rajendra Nagar, District – Raipur (C.G.) for the offence punishable under Sections 420, 406, 407, 34 of Indian Penal Code (for short 'IPC') in MCRC No.6843/2017 and Crime No. 426/2017, registered at Police Station- City Kotwali, Korba, District – Korba (C.G.) for the offence punishable under Sections 420, 406 r/w 34 of Indian Penal Code (for short 'IPC') in MCRC No.6903/2017.

3. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. Applicant is in custody since 10.6.2017 in connection with Crime No.121/2017 and since 8.8.2017 in connection with Crime No.6903/2017. It is submitted that applicant himself is a vendor and subsequently got an agency for distribution of vendorship to others in the field of digitalization of the book. The agreement executed between him and M/s of All Process Solution Private Ltd., clearly shows that applicant was a service provider, regarding which agreements were entered by said company with various persons. Applicant was not a party to those agreements executed between APS Private Ltd. and the persons concerned. None of the witnesses have stated that they have paid any amount to the applicant. Applicant, who is a local resident, is ready and willing to abide by all the conditions that may be imposed while releasing him on bail. The trial of the case is likely to take some time, hence, prayed that applicant be enlarged on bail.

Reliance has been placed on the judgment of the Supreme Court in ***Sunil Bharti Mittal V. CBI***, reported in **(2015) 4 Supreme Court Cases 609** wherein it has been held that specific act has to be

attributed to the Director or any other person allegedly in control and management of the said company, to the effect that such a person was responsible for the acts committed by or on behalf of the company.

4. Learned counsel for the respondent/State opposes the applications and submissions made in this respect. It is submitted that applicant was named in the written complaint submitted in the police-station and the facts of the case are these, that applicant and one Nikhil Prakash were running local franchise of the APS Private Ltd. Company and were appointing vendors for the digitalization work, and the persons interested were required to make security deposit for getting work orders. Complainant Devraj Singh and various others approached the applicant & others and have made security deposits ranging from Rs. 2 to 6 lakhs for getting work orders, as per the contract. The complainant and other vendors performed their work but they were not paid for the same by the said company and on approaching the local office, it was found to be locked and closed and whereabouts of the applicant and others were not known. Thus, the loss of Rs.1,75,000,00/- had been caused to various vendors and depositors because of which the complaint was lodged based on which the offence has been registered against the Director of the said company and the applicant.
5. Heard both the parties and perused the case diary.
6. Considering the submissions made and the contents of the case diary, it appears that though the applicant had entered into agreement with the APS Private Ltd. but worked as a vendor for the said company and also helped the company in finding other vendors. Applicant himself has not received any payment or incentive for the work done by him for the company and neither he nor any of the vendors were paid for the

bills presented by them. Applicant tried to mediate, on which the Directors of the company informed that they themselves will come to Raipur, meet the vendors and resolve the dispute. Thereafter, the whereabouts of the Directors of the company could not be traced and even their telephone and mobile numbers became unapproachable.

7. In the present case the applicant is not recipient of any of the amount deposited as security deposit with the company and all the vendors have directly entered into agreement with the said company and not with the applicant. Thus, considering the role of the applicant in the matter and the fact that the trial is likely to take some time for its disposal and that the applicant is the local resident of the locality whose availability before the trial Court shall not be compromised if he is enlarged on bail, I am of the view that this appears to be a fit case where the applicant should be enlarged on bail.
8. Accordingly, both the applications are allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge