

HIGH COURT OF CHHATTISGARH, BILASPUR

CRMP No. 245 of 2016

Sandeep Kumar Agrawal S/o Shri Inderchand Agrawal Aged About 34 Years R/o 49/4, Nehru Nagar (East), P.S. Supela Bhilai, District Durg Chhattisgarh.

---- Applicant

Versus

1. Anand Agrawal S/o Shri Shyam Sundar Agrawal Aged About 53 Years R/o 188/ H, Maniktala Main Road, P-70 C.I.T. Road Scheme VI- M Kolkata -700054, P.S. Phoolbagan, Civil, Rev. And District Kolkata (W.B.).

2. Ayush Agrawal S/o Shri Anand Agrawal Aged About 28 Years R/o 188/ H, Maniktala Main Road, P-70 C.I.T. Road Scheme VI - M Kolkata -700054, P.S. Phoolbagan, Civil, Rev. And Distt. Kolkata (W.B.).

3. Abhishek Sanghai S/o Shri Om Prakash Sanghai Aged About 34 Years R/o 120/1, Ramkrishnapur Lane Loknath Apartment, Howrah - 711102, P.S. Shivpur, Civil, Rev. And Distt. Kolkata (W.B.).

4. State Of Chhattisgarh Through Saraswati Nasgar Thana Raipur, Distt. Raipur Chhattisgarh.

---- Respondents

For applicant- Shri T.K. Jha, Advocate.

For respondents No.1 to 3 – Shri Vaibhav P. Shukla, Advocate.

For State – Shri Om.P. Sahu, G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

10/04/2017

1. Heard.

2. This is an application for cancellation of anticipatory bail. This court by an order dated 1/05/2014 passed in M.Cr.C.(A) No.310/2014 has enlarged the respondents No.1 to 3 on anticipatory bail with the following conditions:-

(i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;

(ii) that the applicants 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/her from disclosing such facts to the Court or to any police officer;

(iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

3. Learned counsel for the applicant would submit that after such bail was granted to the respondents No.1 to 3, the respondents No.1 to 3 have not appeared even once before the court below and therefore there has been enormous delay is caused and the counsel has made reference to the communication by the trial court dated 19/02/2016 wherein JMFC has referred the case for cancellation on the ground that respondents No.1 to 3 are not appearing before the court below which is causing delay.

4. Learned counsel for the respondents submits that respondents No.1 to 3 have filed application under Section 317 of Cr.P.C. and are residing at Calcutta as such have not appeared before the court below.

5. Perused the earlier bail order dated 1/05/2014 passed in M.Cr.C. (A) No.310/2014 wherein one of the condition was that the applicants shall appear before the trial court on each and every date given to them by the said court till disposal of the trial. Perusal of the order sheet filed before this court would show that on 4/11/2015 after order passed by this court bail bond was furnished. Subsequently, on 5/11/2015 respondents were directed to be present before the court. Subsequently, on 24/11/2015 an application under Section 317 of Cr.P.C. was filed and the argument on charge was fixed. On 8/12/2015 accused did not appear. Subsequently, it was fixed on 23/12/2015.

Again date was given on 7/01/2016 and then 11/01/2016 and then 25/01/2016. Trial court has made reference to this court for cancellation of bail since respondents were not appearing. Perused the order sheets. As appears that after bail having been granted to the respondents, they did not appear even for a single day before the court below, therefore reference was made by learned court below also for cancellation of bail. In view of this, since respondents No.1 to 3 failed to appear before the court willfully and disobeyed the order dated 1/05/2014 passed in M.Cr.C.(A) No.310/2014. In view of the circumstance, the respondents cannot be allowed to flout the orders of the court at their will thereby they cannot be allowed to hijack the legal system. In a result, this court has no other option but to cancel the bail granted to the respondents No.1 to 3 by an order 1/05/2014 passed in M.Cr.C.(A) No.310/2014.

6. Accordingly, bail granted to the respondents No.1 to 3 by an order 1/05/2014 passed in M.Cr.C.(A) No.310/2014 is hereby cancelled.

7. In view of the above, Cr.M.P. is disposed of.

Sd/-

(Goutam Bhaduri)

JUDGE