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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 261 of 2018

- Radheshyam Diwakar S/o Anjor Das, Aged About 50 Years, Block Education Officer, R/o- Pathalgaon, District- Jashpur, Chhattisgarh, Present Address- Vivekanand Colony, Mopka, Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Police Station- Lormi, District- Mungeli, Chhattisgarh., District : Mungeli, Chhattisgarh

---- Non-applicant

MCRCA No. 262 of 2018

- Radheshyam Diwakar S/o Anjor Das, Aged About 50 Years, Block Education Officer, R/o- Pathalgaon, District- Jashpur, Chhattisgarh, Present Address- Vivekanand Colony, Mopka, Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Police Station- Lormi, District- Mungeli, Chhattisgarh., District : Mungeli, Chhattisgarh

---- Non-applicant

MCRCA No. 263 of 2018

- Radheshyam Diwakar S/o Anjor Das, Aged About 50 Years, Block Education Officer, R/o- Pathalgaon, District- Jashpur, Chhattisgarh, Present Address- Vivekanand Colony, Mopka, Bilaspur, Tahsil And District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

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Versus

- State Of Chhattisgarh Through- Police Station- Lormi, District- Mungeli, Chhattisgarh., District : Mungeli, Chhattisgarh

---- Non-applicant

For Applicant – Ms. Rajni Soren, Advocate.

For Non-applicant/State – Mr. Anupam Dubey, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

15-05-2018

1. As applicant is same in all these three applications, they are being decided by this common order.

2. These are first bail applications filed by the applicant before this Court under Section 438 of the Cr.P.C. for grant of anticipatory bail.

3. MCRCA No.261/2018, MCRCA No.262/2018 and MCRCA No.263/2018 have been filed by this applicant as he is apprehending arrest in connection with Crime No.45/2018, Crime No.44/2018 and Crime No.47/2018 registered in Police Station Lormi, District Mungeli, C.G. for the offence punishable under Section 420 of the IPC.

4. It is submitted by learned counsel for the applicant in all these applications that the applicant has been falsely implicated in these cases. The applicant is Block Education Officer and at the relevant point of time, he had not received salary for almost 25 months, because of which, he had to borrow from the complainants in all the three cases, which he intends to repay them. As the applicant has failed to repay the amount borrowed from the complainants in all the three cases, false FIR have been lodged after a lapse of almost 7 years. Hence, it is prayed that the applicant may be benefited with grant of anticipatory bail.

5. Learned counsel for the State/non-applicant opposes the applications submitting that this applicant is habitual offender and he has on various pretexts induced a number of persons to deliver amount to him which he has misappropriated in these cases. Also, there is clear allegations against the applicant that he received amount giving inducement to the complainant that he can arrange for appointment in the job to the concerned. Hence, looking to the seriousness of allegations against him, he is not entitled for grant of anticipatory bail.

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

7. In MCRCA No.261/2018 (Crime No.45/2018), the allegation against this applicant is this that, he received Rs.60,000/- cash from complainant Dharmendra Tandan by giving him inducement that he can use his contact to

get the complainant appointed as Peon and received amount in the year 2010. As the complainant could not be appointed to the job and this applicant not refunded him the amount given for the same, hence, as a last resort the FIR has been lodged. In MCRC No.262/2018 (Crime No.44/2018), the allegation against this applicant is this that, this applicant gave inducement to complainant Harish Chand Tandan in the year 2010 that he can arrange for appointment in the job of the concerned and by way of gratification he received Rs.1,00,000/- from him. Neither the complainant was appointed, nor the amount was refunded, hence, the FIR was lodged on 31-01-2018. In MCRC No.263/2018 (Crime No.47/2018) similar complaint has been made by 11 complainants that this applicant induced them that he will get the complainants appointed as Peons in the school hostel and he during the year 2009 to 2014 received near about Rs.10,00,000/- from the complainants. As none of the complainants could be appointed to any job and neither any refund was made, hence, the FIR was lodged on 31-01-2018.

8. Considered on the submissions made and contents of the case diary.

9. In a similar case, this applicant has been granted anticipatory bail by coordinate Bench of this Court on the ground that this applicant is a Government employee and that the FIR is sufficiently delayed. Although it appears that according to the allegations, this applicant is habitual offender of this kind of offence, but, this fact cannot be ignored that the FIR has been lodged after sufficient delay and that the applicant himself is a Government servant, hence, for these reasons, I am of this view that, as by grant of bail this applicant is not going to be exonerated and he has to face the trial against him, but it may facilitate him to make in some refund to the aggrieved persons, which may not be possible if this applicant kept in detention, therefore, he should be granted regular bail.

10. Consequently, all these three anticipatory bail applications are allowed.

It is directed that in the event of arrest of the applicant in connection with the aforesaid offences, he shall be released on bail by the officer arresting him on executing in each case a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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 applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

11. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

and Dataram Singh Vs. State of Uttar Pradesh & Anr., reported in 2018 LawSuit(SC) 84,
2018 (3) SCC 22