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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 319 of 2018

- Sunil Kumar Singh S/o Late Virendra Pratap Singh, Aged About 52 Years, R/o- Babupara, Jail Road, Ambikapur, P.S. Ambikapur, District- Surguja, Chhattisgarh., District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Superintendent Of Police Anti Corruption Bureau, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

MCRCA No. 358 of 2018

- S.K. Pathak S/o Vijendranath Pathak, Aged About 64 Years, R/o- House No. 416, Near Millennium Chowk, Sundar Nagar, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Superintendent Of Police Anti Corruption Bureau, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

MCRCA No. 362 of 2018

- P.N. Jangde S/o C.R. Jangde, Aged About 59 Years, R/o- E20, Near Marine Drive, Ambikapur, District- Surguja, Chhattisgarh At Present R/o- Village And Post Masaniyakala, Tahsil Sakti, District- Janjgir-Champa, Chhattisgarh., District : Janjgir-Champa, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Superintendent Of Police Anti Corruption Bureau, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

MCRCA No. 367 of 2018

- O. P. Chandel S/o Late Shri P. L. Chandel Aged About 56 Years, R/o House No. 7, Krishna Sudama Puri, Deendayal Upadhyay Nagar, Sector-1, Raipur, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Superintendent Of Police, Anti Corruption Bureau, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Non-applicant

MCRCA No. 374 of 2018

- Uttam Singh Sisodiya S/o P. S. Sisodiya, Aged About 47 Years, R/o Manendragarh Road, Ambikapur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Superintendent Of Police, Anti Corruption Bureau, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Non-applicant

MCRCA No. 456 of 2018

- Ramashraya Singh S/o Late Ramashankar Singh, Aged About 57 Years, R/o Thanganpara, Ambikapur, Police Station And Tahsil Ambikapur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Superintendent Of Police, Anti Corruption Bureau, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Non-applicant

For Applicants – Shri Mrigendra Singh, Senior Advocate with Shri Manoj Paranjpe, Advocate (in MCRCA No.319/2018, MCRCA No.358/2018, MCRCA No.374/2018 and MCRCA No. 456/2018), Shri Sunil Sahu, Advocate (in MCRCA No.362/2018) and Shri Rahul Tamaskar, Advocate (in MCRCA No.367/2018).

For Non-applicant/State – Shri Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-05-2018

1. As all these six applications arise out of the same crime number, i.e., Crime Number No.14/2016 registered at Police Station – Superintendent of Police Anti Corruption Bureau, Raipur, District Raipur, Chhattisgarh, they are being decided by this common order.
2. Apprehending their arrest in connection with aforesaid crime number for the offence punishable under Section 420, 120B, 467, 468, 469, 471, 201 of the IPC and Section 13(2), 13(1)(d) & 15 of Prevention of Corruption Act, 1988, the applicants have preferred these applications for grant of anticipatory bail.

3. It is submitted by learned counsel for the applicants in all these applications, that the applicants have been falsely implicated in this case. Applicant P.N. Jangde (in MCRCA No.362/2018) was posted as Superintending Engineer and applicant O.P. Chandel (in MCRCA No.367/2018) was the Executive Engineer, applicant S.K. Pathak (in MCRCA No.358/2018) was the Chief Engineer in Hasdeo, Ganga Kachar, Water Resources Department, Ambikapur. Rest of the applicants are proprietors / partners of the firms who had submitted bids in the subject matter of this case.

It is submitted, that Department of Irrigation, Distt. Ambikapur invited bids for 10 projects. As some irregularities were reported and complained, because of which, 8 tender processes were cancelled on the initial stage. However, tender No.4205 and 4243 were finalized by the Chief Engineer under his authority and work order was granted in favour of the concerned, which was again cancelled by said department. Later on, by order passed by this Court in W.P. (C) No.874/2016 one of the tender works in system No.4205 was allotted to co-accused Arunendra Pratap Singh who has been granted bail and another tender No.4243 was allotted to applicant Sunil Kumar Singh (in MCRCA No.319/2018). The work has been completed and payment has been withdrawn. The allegation made is this that officers of the department with collaboration of the contractors have manipulated for issuance of work order in favour of the selected persons which is totally baseless. Similarly placed co-accused persons namely Prakash Upadhyay, Nurul Hak, Arunendra Pratap Singh, Shailesh Kumar Gupta and Nityanand Singh have been benefited with grant of anticipatory bail. Hence, these applicants may also be granted anticipatory bail.

4. It is submitted by learned counsel for the State/non-applicant that officers of the department have conspired with the contractors for allotment of work to selected contractors. The case diary shows evidence against all these

applicants, hence, none of them are entitled for grant of anticipatory bail.

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

6. According to the case against the applicants, online bids were submitted by various concerns for tender work advertized by the Department of Irrigation, Ambikapur. It is alleged that technical bids of a number of bidders were rejected by the officers of the department on the ground of frivolous reasons, so that a number of bidders were out of the race before the stage of financial bid. It is alleged that this rejection of bids was done by officers of the department by way of conspiracy to facilitate some of the selected contractors. Complaint was received by the department about the faulty tender process, because of which, 8 of the tender processes were cancelled at that stage, remaining two tenders were finalized under the authority of Chief Engineer who happens to be S.K. Pathak (applicant in MCRCA No.358/2018), but before the work order could be issued, the same were cancelled by the department itself. The work order for these two jobs could be received and completed only with the intervention of this Court.

7. Learned counsel for the applicants places reliance on the judgment delivered by Hon'ble the Supreme Court in the matter of **Dataram Singh Versus State of Uttar Pradesh & Another**, (2018) 3 SCC 22, in which Hon'ble the Supreme Court reiterating the principles rendered in the matter of *Gurbaksh Singh Sibbia V. State of Punjab*, (1980) 2 SCC 565 and *Nagendra Nath Chakravarti V. King-Emperor*, 1924 AIR (Cal) 476, held that it is not necessary to go into the correctness or otherwise of the allegations made against the appellant. This is a matter that will, of course, be dealt with by the trial Judge. And for the reason that during pendency of investigation the applicants were not arrested, this by itself entitles the applicants for grant of anticipatory bail.

8. In this case also, charge sheet has been filed after completion of the

investigation. It appears that officers of the Irrigation Department namely S.K. Pathak, O.P. Chandel and one another P.N. Jangde have not been placed under suspension and they are still discharging their duty in their official capacity. However, out of other applicants, Sunil Kumar Singh (applicant in MCRCA No.319/2018), though benefited with work order, but that too with the intervention of the Court. Secondly, the other applicants have not been beneficiaries as they were not benefited in any tender process which was challenged by the complainants in this case. Hence, the case of all these applicants is equally good compared to that of co-accused persons who have granted anticipatory bail, namely Prakash Upadhyay, Nurul Hak, Arunendra Pratap Singh, Shailesh Kumar Gupta and Nityanand Singh. Hence, for these reasons, I am of this view that these applicants should be benefited with grant of anticipatory bail.

9. Accordingly, all these anticipatory bail applications are allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on executing 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 applicants shall also abide by 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) 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.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil