

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 499 of 2018

1. Harvinder Kour W/o Navjeet Singh Tuteja Aged About 42 Years R/o Pandari Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Navjeet Singh Tuteja S/o Amrik Singh Tuteja Aged About 42 Years R/o Pandari Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
3. Gurunam Singh Chhabara S/o Late Ravel Singh Aged About 57 Years R/o A 57 Surya Apartment, Civil Line Katora Talab, Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicants

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Civil Line, Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Nalinesh Thokane S/o Narsingh Rao Thokane Aged About 50 Years R/o New Shanti Nagar, Civil Lines Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondent

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MCRCA No. 500 of 2018

1. Navjeet Singh Tuteja S/o Amrik Singh Tuteja Aged About 42 Years R/o Pandari Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Harvinder Kour W/o Navjeet Singh Tuteja Aged About 42 Years R/o Pandari Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicants

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Civil Line, Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh
2. Harish Agrawal S/o Vijay Agrawal, R/o Choubey Colony, Azad Chowk, Raipur, District Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondent

For Applicants : Mr. Kishore Bhaduri with Mrs. Hamida Siddiqui & Mr. Sunny Agrawal, Advocate.
For Respondent/State: Mr. Anupam Dubey, Dy. Govt. Advocate.
For Objector : Mr. Arvind Shrivastava, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

21/08/2018

1. Both the above applications are applicants' second bail applications filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail as they apprehend their arrest in connection with Crime No.579/2017 in MCRC(A) No.499/2018 and Crime No.586/2017 in MCRC(A) No.500/2018 registered at Police Station-Civil Lines, Raipur District – Raipur (C.G.), for the offence punishable under Section 420/34 of Indian Penal Code (for short 'IPC').
2. Learned counsel for the applicants submits that applicants are innocent and have been falsely implicated in this case. It is submitted that earlier bail applications for grant of anticipatory bail of both the applicants have been decided on merits. The only point that is raised in this application is that Section 41(A) sub section 4 of CrPC is

mandatory to be complied with by the Police Officer in making arrest and while rejecting earlier bail order this Court has not made any specific observation regarding the role played by applicants Harvinder and Gurnam Singh Chhawada. In ***Arnesh Kumar vs. State of Bihar*** reported in **(2014) 8 SCC 273** the directions issued by the Apex Court have not been followed in this case by the Investigating Officer so far. Similarly, directions contained in judgment dated 6.2.2018 passed by the Hon'ble Supreme Court in CRA No.227/2018 (Dataram Singh Vs. State of Uttar Pradesh & another) have also not been followed. Though there is apprehension that the applicants will be arrested but till date they have not been arrested by the police. Hence, under these circumstances, apart from the merits of case, the applicants be benefited with grant of anticipatory bail.

It is further submitted that applicant Navjeet Singh Tuteja has been granted interim relief in WPCR No.89/2018 by the Co-ordinate Bench of this Court vide order dated 13.2.2018, wherein it has been ordered that no coercive steps shall be taken against applicant Navjeet Singh till the next date of hearing. Hence, this applicant is entitled for grant of anticipatory bail.

3. Learned State counsel opposes the bail applications and the submissions made in this respect. It is submitted that subsequent to the dismissal of earlier applications filed by the applicants, there is no change in the circumstances. Substantive allegation that have been made against the applicants in both the cases remain undiluted and the grounds that are raised under Section 41(A) of CrPC and regarding the directions of the Supreme Court in *Arnesh Kumar* (supra) and *Dataram* (supra) are to be complied with by the Police and the

Investigating Officer, to take decision regarding making arrest in this case, hence, application in both the cases be rejected.

4. Learned counsel for the Objector adopting the arguments submitted by the counsel for State opposes the bail applications and the submissions made in this respect.
5. Heard the parties and perused the case diary.
6. Considered on the entire material present in the case diary and also perused the order dated 12.3.2018 passed in MCRC No.1032/2017 and 2 other cases. A detailed order was passed by this Court rejecting the application for grant of anticipatory bail on merits. In the present case, no submission has been made regarding change in circumstances on the merits of case. Other submission regarding the directions under the law and principles laid down by the Supreme Court were also available at the time of passing of earlier order, hence, after due consideration on each and every material placed on record and the submissions made, I am of this view that there is no change in circumstances to entertain this second bail application on behalf of applicants in both the cases.
7. Accordingly, the anticipatory bail applications of applicants are rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge