

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3135 of 2018

- Samiraul @ Samir S/o Late Mohd. Basruddin Aged About 35 Years R/o Village Pathara, Post Manjhgarh, Thana Manjhgarh Bihar, District Gopalganj, Bihar., District : Gopalganj, Bihar

---- Applicant

Versus

- State Of Chhattisgarh Police Station Kotwali Rajnandgaon Through District Magistrate Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Respondent

&

MCRC No. 3475 of 2018

- Abid Hussain S/o Navi Ahmad Aged About 18 Years R/o- Village Pathra, Post Manjhagarh, District- Gopalganj, Bihar, District- Gapalganj, Bihar., District : Gopalganj, Bihar

---- Applicant

Versus

- The State Of Chhattisgarh Through- Police Station Kotwali, District- Rajnandgaon, Chhattisgarh., District : Rajnandgaon, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Shashi Bhushan Tiwari with Mr. P.K.C. Tiwari, Advocate in MCRC No.3135/2018.
		Mr. Parag Kotecha, Advocate in MCRC No.3475/2018.
For Respondent	:	Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

12/07/2018

1. Since the above bail applications arise out of the same crime number, they are being disposed of by this common order.
2. This is second bail application of these applicants, their first bail application was dismissed on merits in MCRC Nos.970/2018 & 1268/2018 vide order dated 5.3.2018.
3. Both these applications filed under Section 439 of the Code of Criminal Procedure, 1973 are second bail applications on behalf of the applicants for grant of regular bail to them as they are in custody in connection with Crime No.340/2017 registered at Police Station-Kotwali, District – Rajnandgaon(C.G.) for the offence punishable under Sections 384, 420, 467, 468, 471, 120-B & 201 of Indian Penal Code (for short 'IPC').
4. Learned counsel for the applicants submits that applicants are innocent and have been falsely implicated in this case. It is further submitted that trial against these applicants has made no progress and some of the accused in this case have already been granted bail by this Court itself and the case against these applicants is also based on similar material. Hence, on the ground of parity it is prayed that these applicants may also be released on regular bail. Reliance has been placed on the judgment of this Court in Deepak Kumar Ratre Vs. State of Chhattisgarh in 2001(1) CGLJ 320 in which it was held that the change in circumstances is not an extra-ordinary technical term. The change in circumstances is infact bundle of facts which may time and again persuade a judge to grant bail in repeat application and after the

release on bail of some of co-accused persons the other accused persons also become entitled. It is further submitted that the applicants have also become entitled to bail under Section 437 (6) of CrPC, hence, it is prayed that they may be released on regular bail.

5. Learned counsel for the respondent/State opposes the applications and submissions made in this respect. In a recent order passed by this Court the application of these applicants has been dismissed on merits after considering all the evidence present against them, hence, the applicants are not entitled for grant of bail in this second bail application.
6. Heard both the parties and perused the case diary.
7. Considered on the entire material present in the case diary, after considering on each and every statement in evidence against these applicants, their applications were rejected on merits on 5.3.2018 and just after passing of 3 months only this repeat application has been filed. The view expressed by learned Judge in Deepak Ratre's case cannot be made applicable in this case because the change in circumstance has to be judged on its own facts & circumstances and no straight-jacket formula can be laid down as to what would constitute change in circumstances. It would depend upon circumstances of each case. Hence, under these circumstances I am not inclined to grant bail to these applicants.
8. Accordingly, the bail applications filed under Section 439 of Cr.P.C. are rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

