

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 4496 of 2018**

1. Vimal Jain, S/o. Late Maniklal Jain, Aged About 66 Years, R/o. House No.22-B, South Avenue, Choubey Colony, Raipur, Distt Raipur Chhattisgarh.
2. Vaibhav Jain, S/o. Vimal Jain, Aged About 38 Years, R/o. House No. 22-B, South Avenue, Choubey Colony, Raipur, Distt Raipur Chhattisgarh.

---- Applicants**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station Hirri, District Bilaspur Chhattisgarh.

---- Respondent**AND****M.CR.C.(A) No. 635 of 2018**

Varun Jain, S/o. Vimal Jain, Aged About 27 Years, R/o. 22B, South Avenue, Choubey Cholony, Raipur, District Raipur Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station- Hirri, District Bilaspur Chhattisgarh.

---- Respondent

For Applicants	: Mr. Sidharth Luthra, Sr. Advocate with Mrs. Fourzia Mirza, Mr. Rahul Sharma and Ms. Mehak Jaggi, Advocates
For Respondent/State	: Mr. Anupam Dubey, Dy. Govt. Advocate
For Objector/Digvijay Singh Bali	: Mr. Arvind Shrivastava, Advocate
For Objector/Abhilash Bannerji	: Ms. Sunita Jain, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****09/07/2018**

1. Since the above regular bail application and anticipatory bail application arise out of the same crime number, they are being heard and disposed of by this common order.

2. The bail application of applicants in M.Cr.C. No.4496 of 2018 is the third bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to them as they have been arrested in connection with Crime No.143/2017, registered at Police- Station Hirri, District– Bilaspur (C.G.) for the offence punishable under Sections 420/34 & 120-B of the Indian Penal Code. The first bail application of these applicants was dismissed on merits vide order dated 02.05.2018 in M.Cr.C. No.2602/2018. The second bail application was filed for grant of temporary bail, which was allowed vide order dated 17.05.2018 in M.Cr.C. No.3748/2018 and the applicants have surrendered after termination of the period specified in that bail order.
3. The applicant – in M.Cr.C.(A) No.635 of 2018 has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.143/2017 registered at Police Station- Hirri, District – Bilaspur (C.G.), for the offence punishable under Sections 420/34 & 120-B of the Indian Penal Code.
4. Learned counsel for the applicants submits, that applicants are innocent and have been falsely implicated in the crime in question. In fact the transactions between the applicants as partners of the Vicon Wheels with the complainant and others accused had been of commercial nature. The applicants have made refund of the amount to the concerned, regarding which documents are filed on record, which include the bank statement as well.
5. It is further submitted that in the matter of earlier bail application, the objection was raised that the applicants are the accused of similar

other offences also, which needs explanation. It is not denied that there are other cases registered against the applicants. In Crime No.316/2017, registered at P.S.Telibandha U/s. 420/34 of I.P.C., these applicants have filed W.P.(Cr.) No.424/2017, in which vide order dated 13.07.2017 interim relief has been granted with direction not to take any coercive steps against the applicants. In Crime No.320/2017, registered at P.S.- Golbazar for offence under Section 420/34 of I.P.C., the applicants have filed W.P.(Cr.) No.508/2017, in which by order dated 23.11.2017, the proceedings have been stayed by this Court. In Crime No.61/2018, registered at Police Station Hirri for offence under Section 294, 420, 506, 34 of I.P.C. and under Section 138 of Negotiable Instrument Act, the applicant Varun Jain has been granted anticipatory bail. In Crime No.191/2018, registered at P.S.- Telebandha for the offence under Section 420/34 of the I.P.C., the applicants have enlarged on bail. Hence, this is the only case registered against them in which the bail is prayed for.

6. It is further submitted that charge-sheet in this case has been filed and the trial against them is likely to take some time. No purpose would be served, if the, applicants kept in detention till the conclusion of trial. Hence, for this reason, it is prayed that they may be released on regular as well as on anticipatory bail respectively.
7. Learned counsel for the respondent/State opposes the applications and submissions made in this respect. It is submitted that according to the statement of the witnesses recorded under Section 161 of Cr.P.C., it is clearly made out that the applicants are the habitual offenders and they have numerous cases registered against them. Hence they are

not entitled for grant of bail.

8. Mr. Arvind Shrivastava, Advocate appearing on behalf of objector – Digvijay Singh Bali submits that it is a case of money transaction, but the criminal jurisdiction is not barred. The contents of the FIR clearly make out the offence registered against the applicants. It is also submitted that after rejection of the previous bail applications of the applicants (in M.Cr.C. No.4496/2018), no change has occurred. Even after filing of the charge-sheet, the facts in the case remain the same. It is further submitted that the applicants are involved in six similar cases and they have misappropriated total amount of Rs.7.00 Crores. Hence, they are not entitled for grant of bail either regular or anticipatory.
9. Ms. Sunita Jain, counsel appearing on behalf of the objector Abhilash Bannerji submits that two more complaint cases have been filed against the applicants, in which allegations have been made about commission of similar nature of offence by the complainants. Further there are cases registered against these applicants in different cities. Hence, looking to the numerosity of the offence registered against the applicants, it is prayed that the applicants are not entitled for grant of bail.
10. In reply, counsel for the applicants submits that the objectors, who have appeared before this Court to object for grant of bail have been refunded the amount received from them by these applicants. Apart from that in the case in which objector Anil Nacharani is the complainant, the stay in proceedings granted by this Court is operating.

11. I have heard the learned counsel for both the parties and perused the case diary.
12. As this is the third bail application, hence, the facts of the case are not required to discuss again.
13. The submissions made by the counsel for the applicants that the amount has been refunded either in full or part to the respective complainants has not been denied by the counsels for the said objectors. Further the statement on behalf of the applicant explaining the status of other cases registered against them has also not been challenged, according to which in two of the cases, the applicants have got interim relief from the High Court and in one of the cases the applicant – Varun Jain has been benefited with grant of anticipatory bail. Similarly in one crime registered against the applicants in P.S. - Telibandha, they have been benefited with grant of bail by the concerned Court. As there is no challenge to the statement made, by the State or by the Objectors, this has to be taken into consideration.
14. Counsel for the applicants has placed reliance of the judgment of this Court in case of ***Dr. Sunil Puri Vs. State of Chhattisgarh***¹ and the judgment of the Hon'ble Supreme Court in case of ***Santosh Vs. State of Maharashtra***² in which the principle for grant of bail has been discussed.
15. In the present state of things, it appears that charge sheet has already been filed and no further investigation is required to be made in this case, it appears that the objection raised by the State and the objectors in the previous bail application have been sufficiently

1 2006 Cr.L.J. 2866

2 (2017) 9 SCC 714

explained from the applicants' side. Further the submission of the applicants regarding refund to the aggrieved persons is also worth consideration. Hence, subsequent to the rejection of the bail applicants in M.Cr.C. No. 4496/2018, it is found that circumstances have changed and after filing of the charge-sheet it appears trial is going to take considerable time for its conclusion. With respect to the applicant – Varun Jain (in M.Cr.C.(A) No.635/2018, there appears to be no requirement of any custodial interrogation after completion of investigation. Hence for this reason, I am of this view that applicants- in M.Cr.C. No.4496 of 2018 deserve to be enlarged on regular bail and applicant in M.Cr.C.(A) No.635 of 2018 also deserve to be enlarged on anticipatory bail.

16. Accordingly, the regular bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that applicant- in M.Cr.C No.4496 of 2018 shall be released on bail on their furnishing a personal bond for a sum of Rs.25,000/- with one local surety each in the like sum to the satisfaction of the trial Court concerned, for their appearance as and when directed.
17. Likewise the anticipatory bail application of applicant in M.Cr.C.(A) No.635 of 2018 is allowed and 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 his executing a personal bond in the 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge