

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 5195 of 2017

- Anurag Singh S/o Shashibhushan Singh, Aged About 29 Years R/o 12/69, Solanki House, Helabazar, Hajipur (Bihar).

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Ganj, Raipur District Raipur (Chhattisgarh).

---- Non-applicant

And

MCRCA No. 596 Of 2017

- S. Gopal Krishna S/o Shri S. Subraya Hola Aged About 50 Years, R/o Karnataka Bank Limited, Head Office- R F.D. Division, Mahavir Circle, Mangaluru Karnataka-575002 (Mo) No. 9893107993

---- Applicant

Vs

- State Of Chhattisgarh Through- Police Station - Ganj, District- Raipur, Chhattisgarh.

---- Non-applicant

And

MCRC No. 5615 Of 2017

- Manoranjan Kumar Pandey S/o Shri Shatrughan Pandey, Aged About 43 Years, R/o M.D.D. 82, Kabir Nagar, Raipur Tahsil & District Raipur Chhattisgarh

---- Applicant

Vs

- State Of Chhattisgarh Through Police Station Incharge - Police Station - Ganj, Raipur District Raipur Chhattisgarh

---- Non-applicant

For Applicant – Shri V.R. Tiwari, Advocate (in MCRC No.5195/2017),
Dr. N.K. Shukla, Senior Advocate with Shri D.K. Gwalre (in MCRCA No.596/2017),
Shri Sunil Otmani and Shri Ankit Singhal, Advocates (in MCRC No.5615/2017)

For Non-applicant/State – Shri Anil S. Pandey, Govt. Advocate.
Shri Y.C. Sharma, Advocate for the objector (in MCRCA No.596/2017 and MCRC No.5615/2017)

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

08-01-2018

1. As these three applications arise out of the same crime number, i.e. Crime No.33/2017 registered at Police Station Ganj, District Raipur, C.G., they are being decided by this common order.
2. MCRC No.5195/2017 and MCRC No.5615/2017 are first bail application before this Court filed by applicants Anurag Singh and Manoranjan Kumar Pandey under Section 439 of the Cr.P.C for regular bail. Applicant Anurag Singh in MCRC No. 5195/2017 has been arrested on 15-06-2017 in connection with aforesaid crime number for the offence under Section 420, 120-B, 34 of the IPC and applicant Manoranjan Kumar Pandey in MCRC No.5615/2017 has been arrested on 17-06-2017 in connection with aforesaid crime number for the offence under Section 420, 120-B, 34, 409 of the IPC. MCRC No.596/2017 is first bail application before this Court filed by applicant S. Gopal Krishna under Section 438 of the Cr.P.C. for grant of anticipatory bail who is apprehending his arrest in connection with aforesaid crime number for the offence under Section 420, 34, 120-B of the IPC.
3. It is submitted on behalf of the applicant Anurag Singh in MCRC No.5195/2017 that the applicant has been falsely implicated in this case. He is in jail since 15-06-2017. As alleged in the case against the applicant, the applicant in capacity of employee of the Karnataka Bank, Branch Fafadih, Raipur transferred the amount from the account of Yogesh Udyog Pvt. Ltd. to the account of Sai Industries on the instructions given by the Assistant Manager and Branch Manager of the Bank. He has not benefited in any manner from this transaction. Further, the bank has agreed to re-transfer the amount to the account of the complainant by way of reimbursement. It is submitted that a compromise has been arrived at between the complainant, applicant Anurag Singh

and Manoranjan Kumar Pandey, on the basis of which the trial Court allowed the application for compounding the offence under Section 320 of the Cr.P.C. and acquitted applicant Anurag Singh and Manoranjan Kumar Pandey from the charges under Section 420 of the IPC. Jyoti Shah, the Director of Yogesh Udyog Pvt. Ltd. has given statement before the Court that she does not want to prosecute applicants Anurag Singh and Manoranjan Kumar Pandey. Hence, looking to these developments of circumstances, it is prayed that the applicant may be granted regular bail.

4. Learned counsel for applicant S. Gopal Krishna in MCRCA No.596/2017 submits that the applicant is apprehending his arrest in this case. It is submitted that between date 31-12-2015 and 19-01-2016 the amount of Rs.3,65,00,000/- was transferred from the account of Yogesh Udyog Pvt. Ltd. to the account of Sai Industries. This transfer was made by applicant Anurag Singh in personal capacity without the instructions of the superior authorities of the bank, which he has admitted in his letter dated 28-01-2016 attached as Annexure-A/5. The loss incurred to Yogesh Udyog Pvt. Ltd. has been reimbursed and email was received from the Director of Yogesh Udyog Pvt. Ltd. On 29-01-2016 that after receiving the deposits, it intends to withdraw the complaint. It is submitted that there is no mens rea was there on the part of the applicant. The applicant in capacity of the Manager of the said bank has accepted the responsibility regarding illegal transaction made by the subordinate staff. A compromise entered into by the complainant and other accused persons is equally applicable to this applicant. Further, no case will be left to be determined in view of the ratio laid down by Hon'ble the Supreme Court in the matter of **CBI, ACB, Mumbai V. Narendra Lal Jain and Ors.**, reported in AIR 2014 SC (Supp) 532 and by Bombay High Court in the matter **State v.**

Bherulal Dagadulal Jain and others, reported in 1970 CRI. L.J. 1038.

5. It is submitted by learned counsel for applicant Manoranjan Kumar Pandey in MCRC No.5615/2017 that this applicant is a businessman and Sai Industries is a firm in the style of which he carries on his business. The applicant has various transaction with Yogesh Udyog Pvt. Ltd. by Sai Industries. After calculation it was found that Rs.61,91,587/- was paid in excess to Yogesh Udyog Pvt. Ltd., for which the refund was requested, but not entertained by the Yogesh Udyog Private Ltd. Later on, the applicant has been roped in the case falsely. The applicant cannot be held responsible for the transfer made into the account of his firm and no malice can be attributed on his part. Further, it is submitted that on the basis of compromise between the applicant and the complainant, the trial Court has acquitted the applicant from charge under Section 420 of the IPC. Hence, it is prayed that applicant Manoranjan Kumar Pandey may be granted regular bail.

6. Learned counsel for the State/non-applicant opposes the applications and submission made in this respect.

7. Learned counsel for the objector in MCRC No.596/2017 has raised objection on the bail application brought by applicant S. Gopal Krishna. It is submitted that applicant S. Gopal Krishna accepted the responsibility of the erroneous transfer from the account of Yogesh Udyog Pvt. Ltd., but thereafter, has maliciously acted in holding back the payment of the bank guarantee of Rs.41,00,000/- in favour of the petitioner. The petitioner/complainant had to approach to Hon'ble High Court by filing WP No.663/2015 and by the orders of the High Court dated 16-07-2015 the bank guarantee was released, but the same was adjusted with some other transaction of bank guarantee without

permission and consent of the complainant. Thus, applicant S. Gopal Krishna has committed offence of cheating and forgery and is trying to presurize the complainant, because of which he is not entitled for grant of anticipatory bail.

8. Learned counsel for applicant Anurag Singh in MCRC No.5195/2017 has submitted in reply that submission on behalf of applicant S. Gopal Krishna holds no ground. The compromise of complainant with other applicants and the statement given by Kripashankar Shukla, the complainant itself is sufficient to make out a case against applicant S. Gopal Krishna.

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

10. The case against the applicants is already discussed, according to which, without any authority, consent or permission Rs.3,65,00,000/- was transferred from the account of Yogesh Udyog Pvt. Ltd. to the account of Sai Industries. On the basis of the complaint made by objector/complainant, the case has been registered against the applicants.

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

12. It is not disputed that applicant Anurag Singh was the person who transferred the amount in the manner abovementioned. The statement of applicant Anurag Singh that the transfer was made on the instruction of superior authorities is a self defence and not admitted by applicant S. Gopal Krishna. Taking into consideration all the contents of the case diary and the development of things that the case against the applicants Anurag Singh and Manoranjan Kumar Pandey has been partly compromised and the effect of such compromise shall be considered by

the trial Court itself with respect of applicant S. Gopal Krishna, I am of this view that applicants Anurag Singh and Manoranjan Kumar Pandey are entitled for grant of regular bail and applicant S. Gopal Krishna deserves to be benefited with grant of anticipatory bail in the present matter.

13. Consequently, the applications filed under Section 439 of the Cr.P.C. by applicants Anurag Singh and Manoranjan Kumar Pandey for grant of regular bail are hereby allowed. It is directed that the applicants Aurag Singh and Manoranjan Kumar Pandey shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned Court, for their appearance as and when directed.

14. Also, the anticipatory bail application filed by applicant S. Gopal Krishna under Section 438 of the Cr.P.C. is hereby allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him 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 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.

15. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge