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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No.7024 of 2018**

Ajay Kumar Tiwari, son of Shatrughanlal, aged about 49 years,
resident of Professor Colony, Raipur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Station House Officer, Police Station
Rajendra Nagar, Raipur, District Raipur, Chhattisgarh

---- Respondent

M.Cr.C. No.7434 of 2018

1. Manoj Uboweja, son of late Phuman Lal Uboweja, aged about 56 years, r/o Pachpedi Naka, Raipur, Chhattisgarh
2. Jaipal Singh Gulati, son of Preetam Singh Gulati, aged about 43 years, r/o Near Old Bus Stand, Korba, Chhattisgarh

---- Applicants

versus

State of Chhattisgarh through Police Station Rajendra Nagar,
Raipur, Chhattisgarh

---- Respondent

M.Cr.C. No.7696 of 2018

Suresh Nihal, son of Shri Jairam Das Nihal, aged about 54 years,
r/o New Shanti Nagar, Raipur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Station House Officer, Police Station
New Rajendra Nagar, Raipur, District Raipur, Chhattisgarh

---- Respondent

and**M.Cr.C.(A) No.1304 of 2018**

Santosh Pandey, s/o Shri R.M. Pandey, aged about 47 years, r/o
Samta Colony, Raipur, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Police Station Rajendra Nagar,
Raipur, District Raipur, Chhattisgarh

---- Respondent

For Respective Applicants :	Shri Y.C. Sharma, Shri V.R. Tiwari, Shri Maneesh Sharma and Shri Arvind Shrivastava, Advocates
For State/Respondent :	Shri Sangharsh Pandey, Deputy Government Advocate
For Objector :	Shri Manish Nigam, Advocate

Hon'ble Shri Justice Arvind Singh Chandel

Order on Board

2.11.2018

1. Since all the above bail applications arise out of a same crime, they are disposed of together by this common order.
2. M.Cr.C. No.7024 of 2018, M.Cr.C. No.7434 of 2018 and M.Cr.C. No.7696 of 2018 are first bail applications filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the Applicants who have been arrested in connection with Crime No.159 of 2018 registered at Police Station Rajendra Nagar, Raipur, District Raipur for alleged offence punishable under Sections 409, 420 and 120B of the Indian Penal Code. The Applicant of M.Cr.C.(A) No.1304 of 2018 is apprehending his arrest in connection with the aforesaid Crime No.159 of 2018.
3. The prosecution case, in brief, is that Complainant Mahesh Kumar Gupta is one of the Directors of one Gentle Entertainment Private Limited, Raipur (henceforth 'the Entertainment Company'). Applicant Suresh Nihal of M.Cr.C. No.7696 of 2018 is one of the shareholders of the Entertainment Company and all the other Applicants are also Directors of the Entertainment Company. Complainant Mahesh Kumar Gupta lodged a report alleging that he and the Applicants and some other persons, total 13 persons,

are Directors of the Entertainment Company. It is alleged that the present Applicants were running the business of the Entertainment Company on behalf of other Directors also. The Entertainment Company purchased set top box worth total Rupees Nine Crores and Fifty Lakhs and received commission of Rupees Sixty Six Lakhs. However, allegedly, all the present Applicants have disbursed the amount of commission among them without knowledge of other Directors and thereby caused loss to the Entertainment Company. On the basis of the report of Complainant Mahesh Kumar Gupta, aforesaid Crime No.159 of 2018 has been registered for the alleged offence punishable under Sections 409, 420 and 120B of the Indian Penal Code.

4. Learned Counsel appearing for the respective Applicants of M.Cr.C. No.7024 of 2018, M.Cr.C. No.7434 of 2018 and M.Cr.C. No.7696 of 2018 submit that the Applicants are innocent and they have been falsely implicated due to some business rivalry. There is nothing on record on the basis of which it could be established that the Applicants of the above-mentioned three bail applications were authorised by the other Directors for running the business of the Entertainment Company. They further submit that there is also nothing in the case diary to show that the Entertainment Company received any commission of Rupees Sixty Six Lakhs, which was disbursed by the Applicants among them. They further submit that the Complainant himself has embezzled the assets of the Entertainment Company and for saving himself from a criminal case, he has lodged a false and frivolous report against the Applicants. They also submit that both the parties have entered into an agreement on 8.9.2018 and thereby they have amicably

settled their dispute. In paragraph 8 of the said agreement, it is admitted by both the parties that due to a mutual dispute, report was made. Applicants Ajay Kumar Tiwari and Suresh Nihal have been arrested on 30.8.2018 and Applicants Manoj Uboweja and Jaipal Singh Gulati have been arrested on 12.9.2018. Since the parties have already entered into the agreement and have amicably settled their dispute and charge-sheet has not yet been filed and trial is likely to take much time, the Applicants may be released on regular bail.

5. Learned Counsel appearing for the Applicant in M.Cr.C. (A) No.1304 of 2018 preferred under Section 438 of the Code of Criminal Procedure submits that the Applicant is one of the Directors of the Entertainment Company. He has not played any role in the alleged offence. Police has registered the crime without appreciating the nature of the transaction and background of the parties. There is nothing in the case diary on the basis of which a *prima facie* case is made out against the Applicant. He further submits that the Applicant and the Complainant have resolved their dispute and differences and they have amicably settled all their disputes. Before the Trial Court also, the Complainant did not raise any objection against grant of anticipatory bail to the Applicant. Looking the facts and circumstances of the case, the Applicant may be granted the benefit of anticipatory bail.
6. Per contra, Learned Counsel appearing for the State and the Objector oppose the prayer for bail. It has been submitted that since the offence registered against the Applicants is of heinous

nature and investigation is still continued, the prayer for bail may be rejected.

7. I have heard Learned Counsel appearing for the parties and perused the entire case diary with due care.
8. Taking into consideration the facts and circumstances of the case, nature of the offence, arguments advanced on behalf of the parties and also considering that the parties have already entered into an agreement and have amicably settled their dispute, without further commenting on merits of the case, I am inclined to release the Applicants of M.Cr.C. No.7024 of 2018, M.Cr.C. No.7434 of 2018 and M.Cr.C. No.7696 of 2018 on regular bail. As regards M.Cr.C. (A) No.1304 of 2018, since the parties have amicably settled their dispute and the Complainant had also no objection to the grant of anticipatory bail to the Applicant before the Sessions Court, I am also inclined to extend him the benefit of anticipatory bail.
9. Accordingly, all the four bail applications are allowed.
10. It is directed that the Applicants of M.Cr.C. No.7024 of 2018, M.Cr.C. No.7434 of 2018 and M.Cr.C. No.7696 of 2018 shall be released on regular bail on each of them furnishing a personal bond in the sum of Rs.50,000/- with two solvent sureties each in the sum of Rs.50,000/- to the satisfaction of the concerned Trial Court for their appearance before the said Court as and when directed.
11. As regards M.Cr.C. (A) No.1304 of 2018, it is directed that in the event of arrest of the Applicant in connection with the aforesaid

crime, he shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs.50,000/- with two solvent sureties each in the like amount to the satisfaction of the Arresting Officer/Presiding Officer of the concerned Trial Court. He shall also abide by all the following terms and conditions:

- (i) He shall not directly or indirectly made any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
- (ii) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) He shall appear before the Trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
JUDGE