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HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1056 of 2017

- Navjeet Singh Tuteja S/o Amrik Singh Tuteja, Aged About 42 Years, R/o Pandari, Raipur, District Raipur, Chhattisgarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Civil Line, Raipur, District Raipur, Chhattisgarh, Chhattisgarh

---- Non-applicant

MCRCA No. 1060 of 2017

- Harvinder Kour W/o Navjeet Singh Tuteja, Aged About 42 Years, R/o Pandari, Raipur, District Raipur Chhattisgarh, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Civil Line, Raipur District Raipur Chhattisgarh, Chhattisgarh

---- Non-applicant

For Applicants – Ms. Hamida Siddiqui, Advocate.

For Non-applicant/State – Mr. Anupam Dubey, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order on Board

12-03-2018

1. As both these applications arise out of the same crime number, i.e., Crime No.586/2017 registered at P.S. Civil Line Raipur, District Raipur, Chhattisgarh for the offence under Section 420/34 of the IPC, they are being decided by this common order.
2. These are first bail applications filed by the applicants before this Court under Section 438 of the Cr.P.C. for grant of anticipatory bail as they are apprehending arrest in connection with aforesaid crime number and offence.
3. It is submitted by learned counsel for the applicants in both the cases that the case against these applicants is purely civil transaction and no criminality can be attributed on the part of the applicants in this case. It is submitted by learned counsel for the applicants that the fact is this that the applicants and the complainant had entered into an agreement for lease of restaurant and bar in Magneto Mall, for which the amount of Rs.2,61,25000/-

was received by applicant Navjeet Singh Tuteja. As the agreement could not be performed, instead of filing civil suit, a complaint has been filed against applicant Navjeet Singh Tuteja alleging commission of offence of cheating. Copy of the agreement dated 01-09-2016 has been filed. It is also submitted that applicant Navjeet Singh Tuteja has been protected by this Court in W.P. (Cr.) No.77/2018 vide order dated 07-02-2018 and in WPCR No.89/2018 vide order dated 13-02-2018, wherein, orders has been passed by this Court that no coercive steps shall be taken against this applicant. Hence, he is entitled for grant of anticipatory bail.

Applicant Harvinder Kour in MCRCA No.1060/2017 is simply a house wife and she has not engaged in any business although the business styled as Sahaj Enterprises shows applicant Harvinder Kour as proprietor, but this business is run by her husband Navjeet Singh Tuteja on power of attorney given by her, hence, she has not entered into any contract herself and neither she is responsible for any consequences. It is also submitted that this applicant has to take care of her child who is physically incapacitated because of Retinal Detachment for which her child has undergone surgery and has to be cared for regularly. It is also submitted that Navjeet Singh Tuteja in MCRCA No.1056/2017 has also filed a complaint against the complaint in this case apart from the civil suit filed by him. Hence, no case is made out against all the applicants Therefore, it is prayed that the applicants may be granted anticipatory bail. Learned counsel for the applicants placed reliance on the judgment dated 01-09-2015 delivered by Hon'ble the Supreme Court in **Criminal Appeal Nos. 1134-1135 of 2015, (Bhadresh Bipinbhai Sheth Versus State of Gujrat & Another)**, in which it was held that where the accusations have been made only with the object of injuring or humiliating the applicant by arresting him or her, in that case he should be granted anticipatory bail.

4. Learned counsel for the State/non-applicant opposes the application and submits that in this case the incident has started from 05-08-2016, FIR was lodged on 21-09-2017, presently the charge sheet has not been filed so far. According to the contents present in the case diary, the applicants have planned well to commit offence of cheating the complainant in this case and there is material present in the case diary to show that the applicants had been engaged in cheating numerous persons regarding which the list shows that the applicants have similarly borrowed from 138 more persons with intent to defraud them. It is submitted that the private complaint and civil suit that has been filed by applicant Navjeet Singh Tuteja in MCRCA No.1056/2017 is a subsequent development only for the purpose of creating a ground in defence. According to the material present in the case diary, it clearly shows that the applicants had criminal intention from very beginning when they entered into the alleged money transaction with the complainant in this case. Hence, no case is made out for grant of anticipatory bail.

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

6. Complainant Harish Agrawal filed a written complaint in P.S. Civil Lines, Raipur that applicant Navjeet Singh Tuteja and his wife Harvinder Kour stated before him that they have received order to supply medicines of 10 crores to Forest Department from Hindustan Antibiotic Limited and as they were short of funds, hence, they wanted to borrow Rs.2 crores 50 lacs for the business and Rs.11.5 lacs for additional expenses and made statement that they will earn profit of 24%, out of which they will pay 23% profit to the complainant. On being induced, the complainant transferred Rs.2 crores 61 lacs 25 thousands in the account of applicant Harvinder Kour which was in the name of firm Sahaj Enterprises. It is stated in the complaint that the applicants never gave details or shown him papers of the order received. On having doubts, he made enquiry and found that no such order was placed to the firm of the applicants,

hence, he was cheated. The FIR was lodged on this complaint and on the basis of this complaint investigation has been made.

7. Considered on the entire material present in the case diary. As there is direct allegation against both the applicants that they were present in person for giving inducement to the complainant and there is proof that the amount was transferred by the complainant in the account of firm Sahaj Enterprises in the proprietorship of applicant Harvinder Kour between 01-09-2016 to 04-11-2016. The agreement filed by applicant Navjeet Singh Tuteja is yet to be verified, along with that, his authority to transfer restaurant and bar also requires to be verified. These may also be a requirement of custodial interrogation. Hence, in the present state of things, I am of this opinion that no case is made out for grant of anticipatory bail to both the applicants.

8. Consequently, both these applications filed by the applicants under Section 438 of the Cr.P.C. for grant of anticipatory bail are hereby dismissed.

Sd/-
(Rajendra Chandra Singh Samant)
Judge