

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No. 1032 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**

**MCRCA No. 1036 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. 1063 of 2017**

- Gurunam Singh Chhabara S/o Late Ravel Singh, Aged About 57 Years, R/o A-57, Surya Apartment, Civil Line Katora Talab, 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**

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For Applicants – Ms. Hamida Siddiqui, Advocate.

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

Mr. Arvind Shrivastava, Advocate for the objector.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order on Board**

**12-03-2018**

1. As all these three applications arise out of the same crime number, i.e., Crime No.579/2017 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 all the cases that the case against these applicants is purely civil transactions and no criminality can be attributed on the part of the applicants in this case. It is submitted that all the transactions are money transactions in which applicant Navjeet Singh Tuteja in MCRCA No.1036/2017 was a party to the contract. 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 have 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.1032/2017 is simply a house wife and she is not engaged in any business although the business styled as Sahaj Enterprises shown 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 of regularly.

On behalf of applicant Gurunam Singh Chhabara in MCRCA No.1063/2017, it is submitted that he has no involvement in the alleged crime committed as he has a separate business styled as Chhabara Medical and General Store, hence, it is submitted that he has also not entered into any of the contract of money transaction. It is also submitted that Navjeet Singh Tuteja in MCRCA No.1036/2017 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 01-08-2016, FIR was lodged on 27-02-2017, 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.1036/2017 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 transactions with the complainant in this case. Hence, no case is made out for grant of anticipatory bail.

5. Learned counsel for the objector submits that although the transaction appears to be civil in nature, but by itself cannot be said that there is no criminal liability in that case particularly taking into consideration conduct of the applicants that they had intention to cheat from the initial stage. There is clear cut criminality attached. All the accused are equally involved in the inducement given to the complainant and various other persons, because of which, the

complainant and others were cheated in this case. The medical ground raised by applicant Harvinder Kour has no bonafidy in it because the documents of medical report of her son dated 04-01-2018 submitted shows that after detailed examination it is reported that both eyes are stable, retina needs glaucoma review and there is no specific appointment given, but advised to visit if any occasion arises. Hence, child of applicant Harvinder Kour is not incapable or disabled in the sense.

On behalf of the objector reliance has been placed on the judgment delivered by Hon'ble the Supreme Court in the matter of (1) **Vaman Narain Ghiya Versus State of Rajasthan in Criminal Appeal No.406 of 2008 decided on 12-12-2008**, (2) **Gobarbhai Naranbhai Singala Versus State of Gujrat & Ors. in Appeal (crl.) 198 of 2008 decided on 29-01-2008** and (3) **Central Bureau of Investigation Versus V. Vijay Sai Reddy in Criminal Appeal No.729 of 2013 decided on May 09, 2013**. According to which, the Court has to take careful approach and has to make balance with the liberty of a citizen and the security of the community including consideration of other factors like nature and gravity of the charge. Hence, it is submitted that none of the applicants are entitled for grant of anticipatory bail.

6. In reply, learned counsel for the applicants submits that there is no such admission on the part of the applicants that they are indebted 138 persons and specifically no role has been assigned to applicant Gurnam Singh and applicant Harvinder Kour in commission of the said offence.

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

8. Complainant Nalinish Thonkane filed a complaint before the S.P. Raipur that applicant Navjeet Singh Tuteja, his wife Harvinder Kour and his co-brother Gurnam Singh along with one another came to his house and stated that they are going to open medical store in RIMS Medical College Hospital, for which they want a partner and they gave assurance of profit. On their inducement,

the complainant paid them in total Rs.61,00,000/- in more than one occasion between 02-09-2016 to 20-10-2016. Whenever the complainant asked main accused Navjeet Singh Tuteja to execute the partnership deed, he simply stalled and did not make any attempt to execute the same. It is stated in the complaint that the applicants have cheated more than 100 persons in the said city, hence, prayed for legal action. The FIR was lodged on the basis of this complainant. During investigation it was found that there was no medical store of the applicants in RIMS Hospital, Raipur.

9. On perusal of the statement of the witnesses recorded in the investigation, it appears that there is allegation that the applicants are equally involved in actively giving inducement to the complainant and other persons and there is also evidence that these applicants have borrowed from numerous persons in fraudulent manner. Considering the case against these applicants in totality and looking to the evidence collected in the investigation conducted so far, I am of this view that no case is made out for grant of anticipatory bail in favour of these applicants.

10. Consequently, all 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**