

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 3033 of 2019

- Jagannath Das S/o Shri Tarani Das Aged About 34 Years R/o Baadgad, Post - Sidhanai, Police Station - Ashika, District Ganjam (Orrisa).

---- Applicant

Versus

- State Of Chhattisgarh Through Civil Lines, District Raipur Chhattisgarh.

---- Respondent

&

MCRC No. 3008 of 2019

- Yogendra Kumar Barik S/o Shri Lalit Kumar Barik Aged About 34 Years R/o House No. A/15, Capital City, Phase-1, Saddu, P.S.- Vidhaan Sabha, District- Raipur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through P.S.- Civil Lines, District- Raipur, Chhattisgarh.

---- Respondent

For Applicants	:	Mr. Devarshi Thakur & Mrs. Smita Jha, Advocates.
For Respondent	:	Mr. I. Lakda, Dy. Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

17/06/2019

1. Since the above bail applications arise out of the same crime number, they are being disposed of by this common order.
2. These are second bail application filed by the applicants under Section 439 of the Code of Criminal Procedure, 1973. Their first applications were rejected.
3. The applicants have filed these applications for grant of regular bail to them as they are in custody in connection with Crime No.246/2018 registered at Police Station- Civil Line, District – Raipur(C.G.) for the offence punishable under Sections 420, 120-B, 34 of Indian Penal Code (for short 'IPC').
4. Learned counsel for applicant Yogendra Barik in MCRC No.3008 of 2019 submits that complainant Basant Kumar Verma has been examined before the Court and he has made submissions in favor of this applicant, which shows that this applicant was not involved in the commission of crime as alleged, hence, it is prayed that he may be released on regular bail.
5. Learned counsel for the applicant Jagannath Das in MCRC No.3033 of 2019 submits that payment initiative has been made alongwith application as Annexure-A/6. The fact of defalcation has been falsely alleged against this applicant by the complainant because it was the complainant who himself exceeded in taking and releasing franchisee in a fraudulent manner. The applicant is in jail since 11.4.2018 and the trial is getting delayed. The prosecution has to examine 66 witnesses before completing the prosecution case, therefore, it is prayed that this application be allowed.
6. Learned counsel for the respondent/State opposes the applications

and submissions made in this respect. It is submitted that earlier applications of both these applicants have been dismissed on merits by this Court and there is no change of circumstances in favor of these applicants. It is a case of huge fraud, therefore, the trial will certainly take time before its conclusion, hence, in such a situation delay cannot be a ground for regular bail. Therefore, it is prayed applicants be rejected.

7. In reply, it is submitted by counsel for applicant Yogendra Barik that main witness has not made statement against this applicant, therefore, he is entitled for grant of regular bail.
8. Heard both the parties and perused the case diary.
9. Earlier bail applications of both these applicants have been rejected on merits and there is no change in circumstances to again consider merits of the case. Change in favor of applicant Yogendra Barik, as claimed, is considered. Statement of complainant Basant Kumar Verma discloses that applicant Yogendra Barik was the person who had given inducement to the complainant and others and was instrumental in the agreement that took place between the complainant and main accused Jagannath Das. Some admissions are made in cross-examination, but that needs appreciation so as to hold which of the statement made by this witness is correct or incorrect, which cannot be done while considering bail application. The case is of huge fraud, therefore, there is all likelihood that the trial will take time before its completion, hence, I am not inclined to allow the application in both the cases.
10. Accordingly, the bail applications filed under Section 439 of Cr.P.C. are rejected. However, liberty is granted to both the applicants to repeat

their bail applications in case the trial is not concluded within one year from the date of passing this order.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha