

HIGH COURT OF CHHATTISGARH AT BILASPUR

MCRC(A) No. 629 of 2019

Ajay Kumar Tiwari, S/o. Shatrughanlal, Aged About 49 Years, R/o. Professor Colony Raipur, District Raipur, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through The Station House Officer, Police Station New Rajendra Nagar, District Raipur, Chhattisgarh.

---- Respondent

MCRC(A) No. 678 of 2019

Mahesh Gupta, S/o. Late Shri Premlal Gupta, Aged About 47 Years, R/o. Rohanipuram, Raipur, Tahsil And District Raipur, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through Incharge Police Station - New Rajendra Nagar, Raipur, District Raipur Chhattisgarh.

---- Respondent

MCRC(A) No. 695 of 2019

Jaypal Singh Gulati, S/o. Preetam Singh Gulati, Aged About 43 Years, R/o. Old Bus Stand, Korba, District Korba Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through The Station House Officer, Police Station New Rajendra Nagar, District Raipur Chhattisgarh.

---- Respondent

MCRC(A) No. 705 of 2019

Sanjay Makhija, S/o. Shri Ramesh Makhija, Aged About 40 Years, R/o. Fafadih Chowk, Raipur, Tahsil And District- Raipur, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through Police Station New Rajendra Nagar, District- Raipur, Chhattisgarh.

---- Respondent

MCRC(A) No. 709 of 2019

Suresh Nihal, S/o. Shri Jairam Das Nihal, Aged About 54 Years, R/o. New Shanti Nagar, Raipur Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through S.H.O, Police Station - New Rajendra Nagar, District Raipur, Chhattisgarh.

---- Respondent

MCRC(A) No. 730 of 2019

Naveen Sharma, S/o. Kailash Chand Sharma, Aged About 48 Years, R/o. Shyamkunj, Rohnipuram, P.S. D.D. Nagar, Tahsil And District- Raipur, Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through Police Station- New Rajendra Nagar, District- Raipur, Chhattisgarh.

---- Respondent

&

MCRC(A) No. 742 of 2019

Manoj Ubveja, S/o. Late Shri P.L. Ubveja, Aged About 56 Years, R/o. SBI Colony, H. No.9, Taigor Nagar, Police Station Kotwali, District Raigarh Chhattisgarh.

---- Petitioner

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station - New Rajendra Nagar, Raipur, District Raipur Chhattisgarh.

---- Respondent

For Respective Applicants : Mr. Anand Shukla, Mr. Arvind Shrivastava
Mr. Animesh Tiwari, Mr. Anish Tiwari, Mr.
Atanu Ghosh on behalf of Shashank
Thakur & Mr. Shubham Tripathi on behalf
of Mr. Awadh Tripathi, Advocates.

For State/Respondent : Mr. Sumit Singh, Panel Lawyer

For Objector : Mr. Harshwardhan Parganiha, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

17.05.2019

Heard

1. All the anticipatory bail applications are being heard together and decided by this common order, as they are arising out of the same crime.
2. Apprehending arrest in connection with Crime No.80/2019 registered at Police Station- New Rajendra Nagar, Raipur (C.G.) for the offence punishable under Sections 409, 420, 120-B, 34 of

I.P.C., the applicants have preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.

3. As per the prosecution case, an FIR was lodged by one Indarpal Singh Chawla with the averments that he is one of the Director of one Gentle Entertainment Pvt. Ltd. which is engaged in the business of Cable network. It was stated that in his company along-with him Rajesh Khanna, Gurvindar Singh Anand, Naveen Sharma, Akas Dubey, Mahesh Gupta, Gurucharan Singh Hora & Taranjeet Singh Hora were also Directors. It was stated that earlier certain complaints were made against Manoj Uboweja, Santosh Pandey, Ajay Tiwari, Vicky Gulati @ Jaipal Singh and one share holder Suresh Nihal for which a case was registered under Crime No.159/2018 under Section 409, 420, 120-B of I.P.C. Thereafter, the Company was being managed by Gurucharan Singh Hora, Taranjeet Singh Hora, Rajesh Khanna, Mahesh Gupta, Gurvindar Singh Anand & Naveen Sharma. It came to the notice that the FIR further speaks that the Company had sold certain Setup Box which was worth Rs.13,40,000/- and the Directors have used the money of the Company to their personal use and Rs.39,73,700/- were taken away by the Director without the knowledge of Gurucharan Singh Hora & Taranjeet Singh Hora. The FIR further speaks that when such Directors were apprised and the meeting was held, the Directors assured to return the same and they were satisfied with their promise but eventually no amount was deposited. The report further says the other Directors have received certain amount in the name of the Company but it was not deposited, thereby the Company had suffered huge loss and as such the complaint on behalf of Gurucharan Singh Hora & Taranjeet Singh Hora is filed.
4. Learned counsel for the applicants would submit that Ajay Kumar Tiwari, Sanjay Makhija, Mahesh Gupta, Jaypal Singh, Naveen

Sharma & Manoj Upweja were Directors and Suresh Nihal was one of the share holder. Mr. Anand Shukla & other learned counsel for the applicants would submit that the entire allegation and counter allegation would show that it is an *inter se* dispute between the Directors of the Company for which the remedy is available under Section 245 of the Companies Act, 2013. He further submits that the nature of allegations however have been made but there is nothing on record to support the same. The counsel went through the another report dated 07.02.2019 filed by Mahesh Gupta to the Superintendent of Police, Raipur wherein certain actions were claimed against Gurucharan Singh Hora on whose behalf the complaint was filed. He further submits that after such report was made, the subsequent FIR has been made on 07.03.2019 and going through the initial report made by Mahesh Gupta, he submits that no further interrogation would be required as it is out & out monetary transaction in between the parties that too in between the Directors, therefore, the applicants may be released on anticipatory bail.

5. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
6. Learned counsel for the objector opposes the argument and during the course of argument, the order is perused passed under Section 144(2) of Cr.P.C. It is contended that there has been a dispute about the Cable network and the applicants have caused wrongful loss by unauthorised withdrawal of money and misappropriation.
7. Perused the case diary and the report. The report made by Mahesh Gupta which is on record also perused. It speaks that certain earlier dispute was going on in between the parties and as two cases were pending against each other one was compromised whereas

another was not compromised that led to dispute. The documents filed by the objector, which is order dated 15.09.2018 also fortifies the fact that there is *inter se* cable war in between the parties. The nature of the allegation in the FIR category points out that it is a monetary transaction between the Directors, which has been projected and highlighted in the FIR itself.

8. Perused the case diary and the documents, also perused Section 245 of the Companies Act, 2013 qua the allegations. It appears that it is a nature of monetary transaction in between the Directors and non observance of promise made to settle a criminal case. The facts therefore lead to show the nature of dispute of monetary transaction for which entire documentary evidence is available. The custodial interrogation therefore do not appear to be unavoidable, therefore, I am inclined to release the present applicants on anticipatory bail.
9. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on furnishing a personal bond to a sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions :
 - (i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;
 - (ii) that the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Ashok

Sd/-
(Goutam Bhaduri)
Judge