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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C. No. 3576 of 2019**

Raju Harpal S/o Kamraj Harpal Aged About 22 Years R/o Sector-4, Road-7, Q.No. 7/b, Bhilai, Police Station- Bhilai Bhatthi, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through District Magistrate, Durg, District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent**And****M.Cr.C.(A) No. 777 of 2019**

P. Shriniwas S/o Late Shri P. Appal Swami Aged About 40 Years R/o Quarter No. 161, Guru Ghasidas Nagar, Vishva Bank Colony, Bhilai -3, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant**Vs**

State Of Chhattisgarh Through - Station House Officer, Police Station- Supela, District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Respondent**And****M.Cr.C. No. 3635 of 2019**

Kamlesh Thakur S/o Shri Lala Ram Thakur Aged About 32 Years R/o Dayanagar, Plot No. 16, Risali, Tahsil And District- Durg, Chhattisgarh., District : Durg, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station- Supela, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent**And****M.Cr.C. No. 3726 of 2019**

Ajay Pathak S/o Late Shivaji Pathak Aged About 46 Years R/o Qtr. No. D, Risali Sector, Bhilai, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Collector, Durg, District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent

For the Applicants : Shri T.K. Jha, Ms. Aditi Singhvi, Shri
Prasoon Agrawal, Advocates.
For the Respondent/State : Shri Aditya Sharma, P.L.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

ORDER

09.07.2019

Heard.

1. All these applications are being decided by this common order as they arise from the same incident. M.Cr.C. Nos. 3576 of 2019, 3635 of 2019 and 3726 of 2019 are the first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 by the applicants for grant of regular bail to them, who have been arrested in connection with Crime No. 211 of 2019, registered at Police Station – Supela, District – Durg, Chhattisgarh for the offences punishable under Sections 406 and 420/ 34 of the Indian Penal Code. M.Cr.C.(A) No. 777 of 2019 is the first bail application under Section 438 of Cr.P.C. filed by the applicant for grant of anticipatory bail, who is apprehending arrest in connection with the aforesaid offence.

2. On behalf of applicant – Raju Harpal in M.Cr.C. No. 3576 of 2019, it is submitted that the applicant was simply a borrower from the complainant bank and as he has failed to repay the installments he has been arrayed as an accused in this case. The allegation that he has sold the vehicle under hypothecation is false because the same has been recovered from his possession. Hence, it is prayed that the applicant is entitled for grant of regular bail.

On behalf of applicant – P. Shriniwas in M.Cr.C.(A) No. 777 of 2019, it is submitted that the applicant was working as a Manager in IndusInd Bank Limited and the only allegation against him is that he has not financed the vehicle in a proper manner after due verification. There is a statement of co-accused – Sanjay Nag against him who not be examined by the prosecution as witness therefore, there is no other evidence against this applicant. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

On behalf of applicant – Kamlesh Thakur in M.Cr.C. No. 3635 of 2019, it is submitted that he was simply a guarantor in the finance of co-accused – Sanjay Nag therefore, he has not played any role in the said commission of offence alleged. Hence, it is prayed that the applicant is entitled for grant of regular bail.

On behalf of applicant – Ajay Pathak in M.Cr.C. No. 3726 of 2019, it is submitted that he is neither a borrower nor a guarantor or an employee of the bank. Hence, it is prayed that the applicant is entitled for grant of regular bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that a complaint has been filed by the IndusInd Bank Limited against the applicants for defrauding the bank, fraudulently obtaining the loan and disposing of the financed vehicle purchased. Hence, for these reasons, none of the applicants deserve to be enlarged on regular/ anticipatory bail.

4. Heard counsel for both the parties and perused the case diary.
5. According to the prosecution case, applicant – Raju Harpal in M.Cr.C. No. 3576 of 2019 and co-accused – Sanjay Nag in collaboration with applicant – P. Shriniwas in M.Cr.C.(A) No. 777 of 2019 obtained finance from IndusInd Bank Limited for purchase of vehicles. Subsequent to which, the vehicles were purchased. Applicant – Kamlesh Thakur in M.Cr.C. No. 3635 of 2019 was guarantor for Sanjay Nag. It is alleged that the vehicles were although hypothecated with bank but the same were disposed off and installments were not paid by the said borrowers. Therefore, the FIR was lodged.
6. After considering all the facts and circumstances of the case and looking to the pendency of the trial before the Court, I feel inclined to allow all the bail applications filed under Sections 439 and 438 of the Cr.P.C.
7. Accordingly, the bail applications filed under Sections 439 and 438 of the Cr.P.C. are allowed.
8. It is directed that the applicants in M.Cr.C. Nos. 3576 of 2019, 3635 of 2019 and 3726 of 2019 shall be released on bail on each of them furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed. In case any default is committed by the applicant/s in appearing before the concerned trial Court, this order granting bail shall stand cancelled automatically.

9. Accordingly, the anticipatory bail application of applicant – P. Shriniwas in M.Cr.C.(A) No. 777 of 2019 is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the Officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:

- '(i) that the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- (ii) that the applicant 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 them from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge