

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 729 of 2020

1. Dilip Kumar @ Sonu Tiwari S/o Babulal Tiwari Aged About 28 Years R/o B -253, Agye Nagar, P.S. Civil Line Bilaspur, District Bilaspur Chhattisgarh.
2. Rahul Nebhani S/o Murlidhar Nebhani Aged About 35 Years R/o Vyapar Vihar, Bilaspur, District Bilaspur Chhattisgarh.
3. Natwarlal Sharma S/o Late Maniram Sharma Aged About 53 Years R/o Vinobha Nagar, Bilaspur, District Bilaspur Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Station House Officer, Police Station Mulmula, District Janjgir Champa Chhattisgarh.

---- Respondent

WITH

MCRCA No. 918 of 2020

Balmukund Sharma S/o Late Maniram Sharma Aged About 62 Years R/o Ward No. 9, Raigarh, Police Station Kotra Road, Raigarh, District Raigarh Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Police Station Mulmula, Through District Magistrate, Janjgir, District Janjgir Champa Chhattisgarh.

---- Respondent

For Applicants (In MCRCA No.729/2020) : Mr. Manoj Paranjpe, Advocate.
For Applicant (In MCRCA No.918/2020) : Mr. Ashish Gupta, Advocate
For Respondent/State : Mr. Ghanshyam Patel, G.A.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

26.08.2020

1. The matter is heard through Video Conferencing.
2. Since, both the cases are arising out of same crime number, therefore, they are being decided by this common order.

3. The applicants have filed this first bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as they are apprehending their arrest in connection with Crime No.113/2020, registered at Police Station: Mulmula, District: Janjgir-Champa (C.G.) for the offence punishable under Sections 420, 188 read with Section 34 of IPC.
4. The anticipatory bail application with regard to Applicant No.1 namely Dilip Kumar @ Sonu Tiwari (In MCRCA No.729/2020) was dismissed as not pressed vide common order dated 16.06.2020 passed in MCRCA No.729/2020 & MCRCA No.737/2020.
5. According to the case of prosecution, on 28.05.2020, on the basis of information received from informant, police officials searched and seized vehicle bearing registration No. CG 10 C 9048 wherein, total 45 cartoons of Rajshree Gutkha containing 7600 packets was found which was being transported without any bilti and bill. It is alleged that despite of service of notice under Section 91 of Cr.P.C., the bilti and bill was not produced by the Applicants. The Applicant No.1 namely Dilip Kumar @ Sonu Tiwari (In MCRCA No.729/2020) was the driver of the said vehicle, Applicant No.2 (In MCRCA No.729/2020) was the trader and the Applicant No.3 (In MCRCA No.729/2020) was the proprietor of the firm namely M/S Jai Baba Traders. The Applicant (In MCRCA No.918/2020) was the transporter of the said articles of Rajshree Gutka. On the basis of said, offence has been registered.
6. Learned counsel appearing on behalf of the applicants submits that the applicants are falsely implicated in the present case without there being any material available on record. He submits that if the entire case of the prosecution is taken as it is, Prima Facie offence under Section 420 of IPC is not made out against the Applicants. With regard to the other offence under Section 188 of IPC, it is duly submitted by the counsel that there was no lock-down or any kind of prohibition at the time of incident therefore, offence under Section 188 of IPC is not made out, therefore, he prays for grant of anticipatory bail to the Applicants.

7. Per contra, learned counsel appearing on behalf of State opposes the bail applications.

8. I have heard learned Counsel for the parties.

9. Considering the facts and circumstances of the case, arguments advanced by the counsel for the parties, without further commenting on other merits of the case, in my considered opinion, it is a fit case for grant of anticipatory bail to the applicants.

10. Accordingly, the anticipatory bail applications are allowed with regard to Applicant No.2 & 3 (In MCRCA No.729/2020) & Applicant (In MCRCA No.918/2020).

11. It is directed that in the event of arrest, the applicants shall be released on bail on each of them furnishing a personal bond in the sum of Rs. 25,000/- with one surety for the like sum to the satisfaction of the officer arresting them and they shall abide by all the following terms and conditions:-

- I. That the accused/applicants shall made themselves available for interrogation before the concerned Investigating Officer as and when required;
- II. The accused/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. The accused/applicants shall not act, in any manner which will be prejudicial to fair and expeditious trial; and
- IV. 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.

Sd/-

(Arvind Singh Chandel)
Judge