

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 1178 of 2020**

Deepesh Saini, S/o. S.R. Saini, aged about 33 years, R/o. Shivam Vatika, Mopka, Bilaspur, District Bilaspur Chhattisgarh.

---Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station Chhura, District Gariyaband Chhattisgarh.

---- Respondent

AND**M.CR.C.(A). No. 1192 of 2020**

Vivek Pandey, S/o. Shri Harishankar Pandey, aged about 33 years, R/o. Road No. 37, Quarter No. 5-B, Sector, Bhilai Nagar, District Durg, Chhattisgarh

---Applicant

Versus

State of Chhattisgarh, Through- Station House Officer, Police Station Chhura, District Gariyaband, Chhattisgarh

---- Respondent

For Applicants : Mr. Shashank Thakur, Advocate with
Mr. Himanshu Sinha, Advocate

For Respondent/State : Mr. Adil Minhaj, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****23/09/2020**

1. Apprehending arrest in connection with Crime No.69/2019, registered at Police Station – Chhura, District – Gariyaband (C.G.) for offence punishable under Section 306, 201 & 34 of the Indian Penal Code, the applicants have preferred these second bail applications for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicants, that both the applicants are police officers, who have been falsely implicated in this case. There is discrepancy in the material of the prosecution case. The medical examination report of the deceased has been obtained through R.T.I., which shows that no injury marks found on the body of the deceased and the doctor has given similar statement in his statement under Section 161 of Cr.P.C.. Therefore, the story of the prosecution regarding torture to the deceased in the police station is itself falsified. The another development on which the applicants are harping upon is this that co-accused persons namely Jainsingh Diwan, Bhikham Sahu, Lakeshwar Bhuarya, Vinod Singh, Ravikishor Sai have been granted anticipatory bail by the Coordinate Benches of this Court and the applicants are similarly placed, hence on the ground of parity, the applicants also pray for grant of anticipatory bail.
3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that on the earlier applications, a detailed order has been passed by this Court mentioning the reason for rejection of their applications. There is no change in circumstances, this Court has given emphasis on the magisterial enquiry in which the applicants and others have been held responsible for suicidal death of the deceased, therefore, any variation in the police investigation can not be accounted for. It is prayed that both the applications be rejected.
4. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.

5. Considered on the submissions. The facts of the case have already been considered in the previous order dated 20.08.2019, passed in M.Cr.C.(A) No. 1000/2019 and M.Cr.C.(A) No. 1002 of 2019, in which this Court has held that on the basis of the judicial enquiry made regarding custodial death of the deceased, the offence committed was found of much gravity, therefore, there is no need to make appreciation of the facts again. Apart from that it would amount to review of the earlier order passed by this Court. The only ground remaining would be this that the co-accused persons have been benefited by granting anticipatory bail by the Coordinate Benches of this Court. The single Bench of Allahabad High Court has decided Criminal ***Misc. Bail Application No. 2554 of 2019, Gajendra Singh vs. State of U.P.*** on **23.07.2020**, in which reference has been made to the order passed by the Supreme Court in ***Rakesh Kumar Pandey vs. Munni Singh @ Mata Bux Singh & Anr., (SLP(Crl) No. 4059/2000 decided on 12.3.2001)***, in which the Apex Court had strongly denounced the order of the High Court granting bail to the co-accused on the ground of parity in a heinous offence. The order of *Rakesh Kumar Pandey (Supra)* was again quoted by the Allahabad High Court in case of ***Ramesh and Ors. Vs. State of U.P. (Cr.A. No.528 of 1998), decided on 01.12.2020***, in which it was held that parity can not be the sole ground for granting bail. Therefore, in this scenario the ground of parity alone can not make the applicants entitled for grant of anticipatory bail subsequent to passing of previous order, in which the applicants have not been found entitled for grant of anticipatory bail on the basis of the merits of the case, therefore, this Court is not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.

6. Accordingly, both the applications for grant of anticipatory bail filed under Section 438 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram