

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1294 of 2020****(Order reserved on 04.11.2020)****(Passed on 18.11.2020)**

Sunil Sundarani S/o Late Shri Manoharlal Sundarani Aged About 45 Years
 R/o House No. B / 19, Sector - 4 Devendra Nagar, Raipur, District : Raipur,
 Chhattisgarh **--- Petitioner**

Versus

State of Chhattisgarh through the State Economic Offence Investigation and
 Anti - Corruption Bureau, Raipur, District : Raipur, Chhattisgarh
--- Respondent

For the Petitioner : Mr. Goutam Khetrapal, Advocate

For the State/Respondent : Mr. Amrito Das, Addl. Advocate General

Hon'ble Shri Justice Goutam Bhaduri**ORDER**

1. This is third bail application for grant of anticipatory bail relating to Crime No.44/2015 of P.S. State Economic Offence Investigation & Anti-Corruption Bureau, Raipur for the offences punishable u/ss 467, 468, 471, 120-B of IPC and Sections 13(1)(d) & 13(2) of prevention of Corruption Act. The first one was dismissed as withdrawn on 18.02.2017 and the second one was dismissed as withdrawn on 13.04.2018. The first and second bail applications were preferred along with other co-accused. This third bail application is primarily on the basis of medical ground.
2. As per the prosecution case, the applicants are partners of M/s. Sundrani Construction Company. They were awarded the work for construction of Bridge over Arpa river at Koni-Mangla-Bilaspur Road. The agreement was executed between the State and the firm. The completion of job was made in the year 2007 and the competent authority also certified that the work done by the applicants was very good. The work was for construction of bridge with 11 piers that is the bridge piers were to be constructed and with each pier underground pile was to be made. The said work was being supervised on behalf of the Government by S.C. Khandelwal, Executive

Engineer, P.S. Chandel and R.K. Verma.

3. In the year 2014 Neorprin bearing which was placed over pier cap was to be changed as a routine manner and for such change of bearing, work was carried out on 16.05.2016. While such work was being carried out during inspection it was found that certain piers were completely damaged. The steel liners were also absent over the concrete bed which were to give support to the pillars and in absence of steel lining, the works had caused damage to the concrete to the extent of 50-60%. The further test was directed by modern method of Ultra Sound Pulse Velocity about the quality of concrete wherein it was found that Piers No. 2, 3, 5, 6, 7, 8, 9, 10 & 11 except Piers 1 & 4 were without proper steel liner. The liner though was used over the exposed part of the river bed, but in lower part of the pier which found support at the rock below the river bed to form the base the steel lining was missing. It is, therefore, the case of prosecution that the applicants along-with officers of the Public Works Department, prepared the forged document to show that the basement work has been carried out according to the drawing and severe deviation from technical specification was made in construction, consequently the repair work had to be carried out almost equal to the cost/expenditure incurred and as such the applicants in connivance with the officers of the department extended undue benefit to each other.

4. Learned counsel for the petitioner would submit that subsequent to the dismissal of the MCRCA No.1100/2016, the bail application of Pitambar Das Sundrani and Murarilal Sundarani was filed bearing MCRCA No.759/2017 which was also on medical ground wherein the bail was granted to only Peetambar Das Sundrani on 20.09.2017 and thereafter another accused Murari Lal was also granted bail in MCRC(A) No.1361/2018 on medical ground, therefore, being in parity with the case of

other accused, the present applicant may also be enlarged on anticipatory bail.

5. A perusal of the record would show that in the bail application of Peetambar Das Sundrani, aged 71 years, medical emergency was projected whereon the State was directed to verify the facts and the medical condition was affirmed by the State on the basis of the report of a team of doctors of two reputed hospitals stated that he lost memory and is not able to walk and needs constant medical supervision. Considering those reports and based on confirmation of the State wherein the medical report was accepted, the anticipatory bail was granted to Peetambar Das on 20.09.2017. Thereafter another bail application bearing MCRC(A) No.1361/2018 was filed by one Murarilal Sundrani, aged about 67 years on the ground that he was suffering from heart ailment and the documents were produced from 3 hospitals whereon the State was directed to verify the report as also medical condition of Murarilal from the experts. The State verified those documents and the medical documents and the condition having been affirmed by the State on the basis of the report given by different individual doctors, the bail was granted to applicant Murarilal on 14.11.2018. The bail order attached shows that the State did not object to the medical reports given by the Doctors in both the cases of Peetambar Das Sundrani and Murari Lal Sundarani and on that basis, the bail applications of two accused were allowed.
6. The present bail application has been filed by applicant Sunil Sundrani who is one of the co-accused on medical ground and certain medical reports by Diagomet Laboratories, New Delhi, Max Health Care Hospital, New Delhi, Heritage Hospital, Raipur were produced and it is contended that the applicant needs Liver Transplantation and needs treatment at higher medical center. Considering the nature of grounds made for bail, this Court on 30.09.2020 has ordered thus :

"Heard.

In the present bail application ailment is shown as one of the ground. The applicant is shown to be of 45 years.

After perusal of the documents and earlier bail orders, it appears that ailment cannot be made an omnibus ground unless the degree of it is ascertained. Therefore, in order to ascertain the fact, the applicant may appear before the panel of doctors before CIMS, Medical College, Bilaspur. The Dean Medical College, CIMS, Bilaspur shall constitute a medical team of three senior most doctors to examine the applicant about his ailment for which the entire medical protocol should be observed. The applicant if si required shall also be admitted for examination and the medical team would examine the applicant without being influenced by the earlier medical reports on which the applicant relies. The medical report shall contain the fact the degree of ailment and further whether the treatment of it could be made available either at Medical College, CIMS, Bilaspur or Medical College Hospital at Raipur.

The petitioner is also directed to place on record copy of the order passed in CRMP No. 1798/2017 to ascertain the steps availed by the applicant."

7. Thereafter, the medical report is filed by the State. Learned counsel for the petitioner would submit that the technical terms have been used which would show that there is presence of abnormal enlargement of liver and presence of abnormality, therefore, the applicant has been referred to the higher medical center which points out that liver transplantation of the applicant would be required, therefore, on this ground, the applicant may be enlarged on bail when custodial interrogation is not required according to the State as stated in Cr.M.P. No.1798 of 2017. Learned counsel for the applicant also referred to the bail order passed by the Coordinate Bench of this Court on 20.8.2020 in MCRC No.19 of 2020 wherein accused Suresh Chandra Khandelwal has been enlarged on bail by holding that the accused have wrongly been shown to be absconded and accordingly, it is stated that the bail order was granted.
8. On the other hand, learned State Counsel opposes the bail application and would submit that the charge sheet in this case has been filed in the year 2015. He would further submit that the medical report of the applicant would

show that it is moderate in nature and no emergency exists.

9. Since the bail has been claimed on medical ground, the report of the medical team of Doctors of CIMS Hospital, is perused. It is reproduced as under:

To

*The Additional Registrar,
High Court of Chhattisgarh, Bilaspur
Through : Proper Channel.*

Subject : *For compliance of Hon'ble Court's order dated 30.09.2020 passed in MCRCA No.1294/2020*

{Sunil Sundrani V/s. State of CG. Arising out Crime No.44/2015, Police Station – State Economic Offence Investigation & Anti Corruption Bureau, Raipur (C.G) }

With the above subject Dean CIMS Bilaspur has constituted a medical team of three Senior Doctors of Surgical & Medical Specialist on dated 06.10.2020.

The team had a meeting in HOD Paediatric Room on dated 08.10.2020 and decide to call the Patient for medical examination and letter was issued for the same. On date 12.10.2020 Patient came to the CIMS hospital for medical examination and he was adviced for investigations for which letter was issue and investigation was done on 15.10.2020.

After investigation patient was found to have moderate hepatomegaly with coarse echotexture suggested of liver parenchymal disease with mild splenomegaly with hemangioma in right lobe of liver.

Patient also have thrombocytopenia with uncontrolled diabetes mellitus with probable kidney injury.

Hence patient was advised to consult higher centre medical college Raipur department of gastroenterology & endocrinology for expert opinion and further management.

Attached : 1) Copy of OPD slip of CIMS Hospital, 1 page.

2) Investigation slip/reports, 8 page

Sd/-

*Dr. Amit Kumar Thakur
Associate Professor
Dept. Medicine*

Sd/-

*Dr. Neeraj Shende
Preofessor & HOD
Dept. Surgery*

Sd/-

*Dr. Rakesh Nahrel
Professor & HOD
Dept. Paediatrics*

10. The report of the Doctors given by the CIMS, Bilaspur would show that 3

Senior doctors have examined the applicant and investigation was carried out on him. The report would show that apart from the ailment of liver, it has been stated the Patient also have thrombocytopenia with uncontrolled diabetes mellitus with probable kidney injury. Therefore he was advised to consult higher center medical college, Raipur department of gastroenterology & endocrinology for expert opinion and further management. The document of Max Healthcare Hospital, Delhi, shows that the patient has the history of pancreatitis for the last 4 years. Therefore, primary reading of the medical report given by 3 independent doctors of the Government Hospital do not contradict or dispute the medical documents which are filed along-with the petition in respect of Diagamet, New Delhi Max Healthcare Hospital, Delhi & Heritage Hospital, Raipur. The documents would show that in Max Health Care, Delhi, he was admitted from 4th August 2019 to 09th August, 2019 and the history reflects that the applicant is suffering recurrent acute pancreatitis since last 4 years with multiple admissions and his last pancreatitis was on May, 2019. The prescription of Heritage Hospital, Raipur, dated 10.08.2020 also shows that that because of acute pancreatitis, the applicant has been referred to the higher center for consideration of liver transplant.

11. The order sheet of Cr.M.P.No.1798 of 2017 would show that the State Counsel was directed to enquire about the fact whether any custodial interrogation of the parties is needed or not. Pursuant to such direction, enquiry was made in Cr.M.P.No.1798/2017. In such Cr.M.P., a categorical submission was made by the State Counsel that no further custodial interrogation is required as all the evidence available is documentary in nature. With respect to the fact about absconding on 20.08.2020 discussed by the coordinate Bench of this Court in MCRCA No.19 of 2020 and reading of it would show the Court held that the procedure u/s 82 of Cr.P.C. was not followed before declaring the other accused as absconding and on that

ground, the bail was granted. The applicant was also declared absconding on the same ground. Therefore, considering the medical report of 3 independent doctors of the Govt. Hospital and other medical prescriptions & opinions of different private Hospitals, on which the applicant has placed reliance which have not been negated wherein it is prescribed that the applicant is required to be considered for liver transplant and further considering the order passed by the Coordinate Bench of this Court in M.Cr.C.(A) No.19/2020 whereby the co-accused has been enlarged on bail, I am inclined to admit the present applicant to anticipatory bail.

12. Accordingly, this bail application 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 officer arresting him or the concerned investigating officer. The applicant shall also abide by the following conditions :

(i) That he shall make himself available for interrogation before the investigating officer as and when required;

(ii) That he 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 any Police Officer;

(iii) That he shall not act in any manner which will be prejudicial to fair and expeditious trial; and

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

C.c. as per rules.

**Sd/-
GOUTAM BHADURI
JUDGE**