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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 11 of 2021**

R.K. Nagapure @ Rajendra Kumar Nagapure

Versus

Central Bureau of Investigation

Alongwith

M.Cr.C.(A) No. 58 of 2021; M.Cr.C.(A) No. 331 of 2021; M.Cr.C.(A) No. 192 of 2021; M.Cr.C.(A) No. 372 of 2021; M.Cr.C.(A) No. 368 of 2021; M.Cr.C.(A) No. 119 of 2021 & M.Cr.C.(A) No. 246 of 2021(All eight bail applications arise out of the same C.B.I. Case No. 03 of 2020 & same F.I.R./Crime No. RC1242017A0002 Dt.24.01.2017, registered at Police Station Central Bureau of Investigation, ACB, Raipur, District Raipur, C.G.)

For Respective Applicants	:	Shri Vaibhav A. Goverdhan, Shri Vivek Sharma, Shri Vineet Kumar Pandey, Shri Rahil Kochar and Shri Pragalbha Sharma, Advocates.
For Union of India/ Non-Applicant	:	Shri Ramakant Mishra, Assistant Solicitor General
For State	:	Dr.(Ms.) Veena Nair, Deputy Advocate General

And**M.Cr.C.(A) No. 117 of 2021**

- Arbind Kumar Singh, (Wrongly mentioned as Arvind Kumar Singh in the order sheet) S/o Lt. Shri Raghunath Singh, aged about 71 years, R/o C/o Shri Rana Kishna Singh, House No. C-44, Police Colony (Gandhi Vihar), Anisabad, Patna-02 (Bihar) 800002
(Wrongly Mentioned as R/o Disargarh Guest House, Near ECL HQ Bardhwan Dhanpuri Distt. Shahdol (M.P.)
Permanent Mahapur, Post Baraon Distt. Rohtas (Bihar) in order sheet)

---- Applicant**Versus**

- Union of India, Through Superintendent of Police, Central Bureau of Investigation, ACB District Raipur (C.G.)

---- Union of India/Non-Applicant**M.Cr.C.(A) No. 151 of 2021**

- Ajay Kumar Agrawal, S/o Shri Gopal Das Agrawal, aged about 50 years, R/o Qtr. No. DSC/22, Jamuna Colliery, SECL, Bhatgaon Colony, Jamuna-Kotma Area, Distt. Anuppur (M.P.) **Permanent R/o** Ram Mandir Road, Ambikapur Distt. Sarguja (C.G.)
- Sabuj Kumar Bal, S/o Lt. Shri Shyam Bal, aged about 45 years, R/o Qtr. No. C/3, SECL, Bhatgaon Colony, Bhatgaon Area, Distt. Surajpur (C.G.)

Parmanent R/o Near Ramkrishna Temple, Pakhanjore Distt. Kanker (C.G.)
----- Applicants

Versus

- Union of India, Through Superintendent of Police, Central Bureau of Investigation, ACB District Raipur (C.G.)

----- Union of India/Non-Applcant

M.Cr.C.(A) No. 317 of 2021

- Santosh Kumar Ranu, S/o Shri Chandi Charan Ranu, aged about 60 years, R/o Basant, Behind Luthra Hospital, Luthra Colony, Nehru Nagar, Bilaspur (C.G.)
Parmanent R/o Village Barhatti, Post Tenya Distt. Murshidabad (W.B.)

----- Applicant

Versus

- Union of India, Through Superintendent of Police, Central Bureau of Investigation, ACB District Raipur (C.G.)

----- Union of India/Non-Applcant

&

M.Cr.C.(A) No. 435 of 2021

1. Rakesh Kumar Prajapati, S/o Pyarelal, aged about 44 years, R/o House No. 372, Domanhil Colliery, Chirmiri, District Korea Chhattisgarh
2. Narendar Singh, S/o Late Meraram Saini, aged about 72 years, R/o. Flat No. 174, Pocket 2, Sector-24 Rohini, New Delhi
At present R/o. Flat No. 438C, Sector- 29, Noida (Uttar Pradesh)
3. Harjeet Singh, S/o. Major Tarasingh, aged about 74 years, R/o. House No. 2133, Sector-35C, Chandigarh (Punjab)
4. Harwant Krishna (wrongly typed as Harwant Krishan), S/o. Kernel Deshraj, aged about 75 years, R/o. House No. 2146, Sector-35C, Chandigarh (Punjab)

----- Applicants

Versus

- Union of India, through Superintendent of Police, Central Bureau of Investigation, ACB, Raipur District Raipur (C.G.)

----- Union of India/Non-Applcant

(All above four bail applications i.e. M.Cr.C.(A) No. 117 of 2021; M.Cr.C.(A) No. 151 of 2021; M.Cr.C.(A) No. 317 of 2021 & M.Cr.C.(A) No. 435 of 2021 arise out of the same C.B.I. Case No. 02 of 2020 & same F.I.R./Crime No. RC1242015A0003 Dt.13.03.2015 {Wrongly Mentioned as 1242015A0003 in order-sheet}, registered at Police Station Central Bureau of Investigation, ACB, Raipur, District Raipur, C.G.)

For Respective Applicants	:	Shri Manoj Paranjpe, Shri Sanjay Agrawal, and Shri Pragalbha Sharma, Advocates
For Union of India/ Non-Applcant	:	Shri Ramakant Mishra, Assistant Solicitor General
For State	:	Dr.(Ms.) Veena Nair, Deputy Advocate General

Hon'ble Shri Justice Gautam Chourdiya, J
Order on Board

24.06.2021

1. The applications are heard through Video Conferencing.
2. M.Cr.C.(A) No. 331/2021; M.Cr.C.(A) No. 372/2021 & M.Cr.C.(A) 368/2021:
3. Heard.
4. Admit.
5. Case diary has already been requisitioned.
6. At the request of learned counsel for the respective applicants, list these matters, i.e. M.Cr.C.(A) No. 11 of 2021; M.Cr.C.(A) No. 58 of 2021; M.Cr.C.(A) No. 331 of 2021; M.Cr.C.(A) No. 192 of 2021; M.Cr.C.(A) No. 372 of 2021; M.Cr.C.(A) No. 368 of 2021; M.Cr.C.(A) No. 119 of 2021; & M.Cr.C.(A) No. 246 of 2021 arising out of same F.I.R./Crime No RC1242017A0002 Dt.24.01.2017, on **02nd August, 2021.**
7. Now this Court considers the bail applications i.e. M.Cr.C.(A) No. 117 of 2021; M.Cr.C.(A) No. 151 of 2021; M.Cr.C.(A) No. 317 of 2021 & M.Cr.C.(A) No. 435 of 2021.
8. Since all above four first bail applications i.e. M.Cr.C.(A) No. 117 of 2021; M.Cr.C.(A) No. 151 of 2021; M.Cr.C.(A) No. 317 of 2021 & M.Cr.C.(A) No. 435 of 2021 under Section 438 of Cr.P.C. preferred by the respective applicants, arise out of the same F.I.R./Crime No. RC1242015A0003 Dt.13.03.2015 {Wrongly Mentioned as 1242015A0003 in order-sheet}, registered at Police Station Central Bureau of Investigation, ACB, Raipur, District Raipur, C.G. for offences punishable under Sections 120B, 420, 468. 471 & 477A of IPC & Section 13 (2) read with Section 13 (1) (d) of Prevention of Corruption Act, 1988, they are being disposed of by this common order.
9. As per prosecution case, the applicants are Partners/Directors of M/s Narendra Transport Private Limited Company. The applicants in conspiracy with other co-accused persons by preparing forged and fabricated coal transport bills/reciepts illegally obtained payment of Rs.27.80 lacs in favour of their Firm M/s Narendra Transport Private Limited Company.

10. Applicants No. 2, 3 & 4 namely Narendar Singh, Harjeet Singh & Harwant Krishna in M.Cr.C.(A) No. 435/2021 are Directors of Transport Company known as M/s Narendra Transport Pvt. Ltd. and they have filed a civil suit against South Eastern Coal Field Limited (SECL) for declaration and injunction regarding recovery of Rs.29,42,035.86 and certified copy of plaint is marked as Annexure- A/2.
11. Applicant- Arbind Kumar Singh in M.Cr.C.(A) No. 117/2021, Applicants- Ajay Kumar Agrawal & Sabuj Kumar Bal in M.Cr.C.(A) No. 151/2021 & Applicant- Santosh Kumar Rana in M.Cr.C.(A) No. 317/2021 were posted at SECL, Bishrampur Area.
12. Shri Manoj Paranjpe, learned counsel appearing on behalf of the applicants in M.Cr.C.(A) No. 435/2021, submits that applicants 2, 3 & 4 are the Director of Transport Company known as Narendra Transport and no direct role has been attributed to the Directors who are old persons of 72, 74 & 75 years of age. Applicant No. 1 is the power of attorney holder of the all three directors and applicants No 2, 3 & 4 are not directly involved in the business. He further submits that applicants No. 2 to 4 are resident of Delhi & Chandigarh. He submits that a civil suit has been filed by complainant M/s Narendra Transport Private Limited against the SECL before the District Judge, Korba which is pending for consideration. He also submits that according to the charge-sheet submitted by the C.B.I., the employees of the SECL have committed irregularities in maintaining the records and registers due to which the allegations have been leveled against the transports. There is no evidence that the applicants have prepared the forged documents. He further submits that there is no role played in preparation of the records and the officers of the SECL are the custodian of all the records and the irregularities committed by the officers and employees of SECL, will not lead to a presumption that the applicants have committed any offence. Presently, the case has been investigated and charge-sheet has been filed before the

Court below and therefore there is no requirement of any custodial interrogation of these applicants. Hence, it is prayed that they may be released on anticipatory bail.

13. Shri Sanjay Agrawal, learned counsel appearing on behalf of the applicants in M.Cr.C.(A) No. 151/2021 and Shri Pragalbha Sharma, learned counsel appearing on behalf of the applicants in M.Cr.C.(A) No. 117/2021 and M.Cr.C.(A) No. 317/2021, jointly submit that C.B.I. has completed the investigation and asked the applicants to appear before the trial Court on 24.08.2020 for filing of final report in the matter but due to Covid-19 pandemic, the court below refused to take the final report on the said date, subsequently on the later date on 20.11.2020 charge-sheet was filed. Further the investigation continued for about 5 years and eventually the charge-sheet has been filed on 20.11.2020. During this period the Investigating Officer did not arrest the applicants. Therefore, it is prayed that they may be released on anticipatory bail.

14. Learned counsel for the applicants placed reliance on the judgment of Hon'ble Supreme Court passed in the matter of ***Dataram Singh Vs. State of Uttar Pradesh and Ors.***, reported in ***(2008) 3 SCC 22*** and order dated 14/7/2020 (***Amar Kumar Sinha & Another Vs. Union of India***) passed in ***M.Cr.C.(A) No. 436 of 2020 & connected M.Cr.C.(A) No. 467 of 2020*** & order dated 21/08/2020 (***Vijay Kumar Agrawal Vs. Union of India***) passed in ***M.Cr.C.(A) No. 3 of 2020 & connected M.Cr.C.(A) No. 58 of 2020*** by the coordinate bench of this Court.

15. Per contra, learned counsel for the Union of India opposes the applications for grant of anticipatory bail to the applicants. It is submitted that in the enquiry made by the CBI, the applicants have been found responsible for the embezzlement of the huge amount, therefore, they are not entitled for grant of anticipatory bail.

16. I have heard learned counsel for the parties.

17. It is a well settled principles of law that while considering the anticipatory bail application, the Courts have to strike a perfect balance between the two conflicting interests viz. sanctity of individual liberty and interest of society. Although the power to release on anticipatory bail can be described as of an extraordinary character but this would not justify the conclusion that the power must be exercised in exceptional cases only. Powers are discretionary to be exercised in the light of circumstances of each case. [*Siddharam Satlingappa Mhetre Vs. State of Maharashtra and others*, (2011) 1 SCC 694]. There is no “inexorable rule” that anticipatory bail cannot be granted unless the applicant is the target of mala fides. There is no invariable or inflexible rule that the applicant has to make out a special case for grant of anticipatory bail. The Court must keep in mind that a person seeking relief of anticipatory bail continues to be a man presumed to be innocent. [*Sushila Aggarwal and others Vs. State (NCT of Delhi) and another*, (2020) 5 SCC 1].
18. Thus, keeping in view the aforesaid principles of law, in the given facts and circumstance of the case that the crime was registered in the year 2015, investigation continued till November 2020, investigation continued for about 5 years, charge-sheet has been filed on 20.11.2020, the mere fact that during this period the C.B.I. did not arrest the applicants in the course of investigation manifest that their custodial interrogation is not required, further written objection filed by the C.B.I. in M.Cr.C.(A) No. 117/2021 and also affidavit filed in compliance of order dated 12.04.2021 of coordinate bench of this Court wherein it is stated that during investigation of the case, the accused persons were not arrested as the requirement of their custodial interrogation was not there, and that one civil suit for declaration and injunction regarding recovery of Rs.29,42,035.86 arising out of the present incident is also pending before the trial Court below, the fact that in similar matters of *Vijay Kumar Agrawal* and *Amar Kumar Sinha* (supra) the

coordinate bench of this Court have also granted anticipatory bail to the accused, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.

19. Accordingly, all four anticipatory bail applications i.e. M.Cr.C.(A) No. 117 of 2021; M.Cr.C.(A) No. 151 of 2021; M.Cr.C.(A) No. 317 of 2021 & M.Cr.C.(A) No. 435 of 2021 are allowed.

20. It is directed that in the event of arrest of the applicants namely Arbind Kumar Singh, Ajay Kumar Agrawal, Sabuj Kumar Bal, Santosh Kumar Ranu, Rakesh Kumar Prajapati, Narendar Singh, Harjeet Singh and Harwant Krishna in connection with the aforesaid crime, they shall be released on anticipatory bail on each of them furnishing a personal bond in the sum of Rs.1,00,000/- with two sureties of Rs.50,000/- each to the satisfaction of the Arresting Officer subject to the following terms and conditions:-

- (a) they 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 fact to the Court or to the Investigating Officer.
- (b) they shall not act in any manner which will be prejudicial to fair investigation and expeditious trial, and
- (c) they shall make themselves available for interrogation by a police officer as and when required.
- (d) they shall strictly follow the COVID-19 protocol issued by the Central Government/State Government/Local Authority.

21. In the result, bail applications i.e. M.Cr.C.(A) No. 117 of 2021; M.Cr.C.(A) No. 151 of 2021; M.Cr.C.(A) No. 317 of 2021 & M.Cr.C.(A) No. 435 of 2021 are allowed on the above terms and conditions.

Sd/-

(Gautam Chourdiya)
Judge