

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8384 of 2020**

- Rajesh Kumar Rathore (Advocate) S/o Late Shri Bhagwat Prasad Rathore Aged About 41 Years R/o Tower Mohalla, Police Station Pali, District Korba Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Pali, District Korba Chhattisgarh

---- Respondent

&**MCRCA No. 1663 of 2020**

- Vikash Vashistha S/o Ramphal Sharma Aged About 30 Years R/o Subash Nagar Dipika Police Station Dipika District Korba, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through, The Station House Officer, Police Station- Pali, District- Korba, Chhattisgarh

---- Respondent

&**MCRCA No. 1702 of 2020**

- Priyanka Jaiswal D/o Umashankar Jaiswal, Aged About 28 Years R/o Pali, Police Station Pali, District Korba Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Pali, District Korba Chhattisgarh

---- Respondent

For respective Applicants	:	Shri Awadh Tripathi, Shri Devershi Thakur and Shri Vijay Kumar Sahu, Advocates
For State	:	Shri Lalit Jangde, Dy.G.A.

Hon'ble Shri Justice Manindra Mohan Shrivastava

CAV Order

12/04/2021

This order shall govern disposal of the aforesaid three bail applications.

1. The applicant – Rajesh Kumar Rathore has been arrested and other two applicants – Vikash Vashistha and Priyanka Jaiswal are apprehending their arrest in connection with Crime No.249/2020 registered at Police Station – Pali, District – Korba (C.G.) for alleged commission of offences under Section 120 (B)/34, 193, 419, 420, 468 of IPC.

2. Prosecution case is that in order to somehow secure release of vehicle by way of interim custody, applicants presented fake person as surety before the Court and in this manner, playing fraud, obtained order of release of vehicle. When the Court, later on, asked for identification proof and the person, who had appeared before the Court was called, accused / applicant -Vikash Vashistha stated before the Court that on the previous day of proceedings, he impersonated Ramphal Sharma in the Court and order of release of vehicle was procured. In his statement, he has stated that all this was done by him as instructed by the applicant – Rajesh Kumar Rathore. The applicant – Priyanka Jaiswal is also involved on the allegation that she was also involved in the said conspiracy of producing fake person in the Court in the name of Ramphal Sharma.

3. Learned counsel for respective applicants would argue that the alleged involvement of the applicants in the offence is false, frivolous and not *prima facie* made out. It was argued that the applicant – Rajesh Kumar Rathore is an advocate and an active member of the bar and in the society and he has been raising voice against irregularities and as he had made certain allegations and requested for enquiry against a judicial officer, he was falsely implicated in the case. According to him, the allegations that on his instructions, Vikash Vashistha impersonated Ramphal Sharma is highly improbable. It is further submitted that the allegations that the applicant is involved in

similar cases earlier and there are other criminal cases pending, is only one side of picture because in those cases, he has been granted relief in higher Courts and it is not a case that in any of the cases, he has been convicted. According to learned counsel for Rajesh Kumar Rathore, if any person impersonated and appeared in the Court as surety, his identity ought to have immediately checked up and would have revealed on that very day, but the appearance of Vikash Vashistha on the next day and recording of his statement clearly shows that it is an act of revenge and false implication because he has been making allegations against judicial officers. According to him, police officers has also involved him in false implication. Lastly, it is submitted that investigation is complete, charge sheet has been filed, therefore, at this stage, he may be granted bail.

Learned counsel for Vikash Vashistha would submit that involvement of the present applicant in the alleged commission of offence is not *prima facie* made out because he is an innocent person. It is submitted that when he had come to the Court, on instructions of the counsel, he appeared and stood as surety and this was stated before the Court on the next day and statement to that effect was also recorded. Therefore, there was no intention to cheat the Court or any judicial proceedings.

Learned counsel appearing for applicant – Priyanka Jaiswal would argue that she is a junior lawyer recently joined and practicing under his senior Rajesh Kumar Rathore and there is nothing to show that she was also knowing this fact that co-accused Vikash Vashistha is not Ramphal Sharma. It is argued that this applicant has been involved only because at the relevant time, she happened to be junior associate recently joined and even in the statement of Vikash Vashistha, nothing has been stated that this applicant had joined co-accused to instruct Vikash Vashistha to impersonate as Ramphal Sharma so as to procure an order of release of vehicle.

4. On the other hand, learned State counsel would submit that present is a case where fraud has been played upon the Court. It is submitted that one of the applicant – Rajesh Kumar Rathore presented co-accused Vikash Vashistha in the Court as Ramphal Sharma to somehow procure an order of release of vehicle. When the Court directed

production of identity details, the matter got exposed and co-accused Vikash Vashistha appeared before the Court and gave statement which was duly recorded by the Court that he is not Ramphal Sharma but on the instructions of co-accused Rajesh Kumar Rathore, he had impersonated Ramphal Sharma in order to get order of release of vehicle. Further, the applicant is involved in other criminal activities and similar allegations of producing fake persons in the Court has been registered against him. It is further submitted that the applicant seeking release of vehicle namely Vinay Kumar also recorded statement before the concerned Court that on 24/02/2020, Ramphal Sharma had not appeared in the Court and in order to obtain release of vehicle, he had made a false statement before the Court.

As far as applicant – Priyanka Jaiswal is concerned, the submission that she is junior to main accused Rajesh Kumar Rathore and it is improbable that she would not know that a fake person is being presented in the Court.

5. As far as applicants Rajesh Kumar Rathore and applicant – Vikash Vashistha are concerned, on *prima facie* consideration, records of the case and charge sheet show that Vikash Vashistha was presented during the course of proceedings as surety towards release of vehicle in which, one Vinay Kumar was interested. The vehicle was got released but later on, when identity enquired into and Vikash Vashistha was asked to produce his identity card, Adhar Card etc., he could not produce and made a statement before the concerned Magistrate that on the instructions of accused Rajesh Kumar Rathore, he was impersonated as Ramphal Sharma.

Therefore, *prima facie* allegations that Rajesh Kumar Rathore is being falsely implicated does not impress this Court, particularly because such complaints were made later on.

6. As far as applicant – Priyanka Jaiswal is concerned, she is a junior associate lawyer and there is nothing in the statement of Vikash Vashistha as recorded before the Magistrate to show that she had knowledge of the fact that one who is presented in the Court as surety, is not Ramphal Sharma but Vikash Vashistha. It is not a case where the

applicant – Rajesh Kumar Rathore is languishing in jail since long without any trial. Therefore, release only on the ground of delay in trial, at this stage, is not made out.

7. In the result, applications of applicants – **Rajesh Kumar Rathore** and **Vikash Vashistha** are rejected.

Application of **Priyanka Jaiswal**, who is also protected by an interim order, is allowed. Accordingly, it is directed that in the event of arrest, the applicant - **Priyanka Jaiswal** shall be released on bail on her furnishing a personal bond in the sum of Rs.25,000/- with one local surety for the like sum to the satisfaction of the arresting officer and she shall abide by all the following terms and conditions:-

- (i) that she shall make herself available for interrogation by a Police Officer as and when required;
- (ii) that she 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 her from disclosing such facts to the Court or to any Police Officer.

As the applicant – **Priyanka Jaiswal** is on interim bail, upon furnishing bond and local surety as above, bond and surety for temporary bail shall stand discharged.

Certified copy as per rules.

Sd/-
(**Manindra Mohan Shrivastava**)
Judge