

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**Reserved for Orders on : 21/09/2021**

**Order Passed on : 10/11/2021**

**Cr.M.P. No.2048 of 2019**

- Ratan Jain S/o Late Reva Ram Jain, Aged About 68 Years R/o Bada Bazar Chirmiri, District Koriya, Chhattisgarh

***---- applicant***

***Versus***

1. State Of Chhattisgarh Through Station House Officer, Police Station Chirmiri, District Koriya, Chhattisgarh
2. R.P. Thakur @ Ram Pravesh Thakur S/o Ramlakhan Thakur Aged About 62 Years Rtd. Director (Technical) S.E.C.L. Bilaspur, Chhattisgarh, R/o Variyatu, District Ranchi, Jharkhand
3. N.R. Holkar @ Navnath Ranba Holkar S/o R.S. Holkar @ Ranba Sadu Holkar Aged About 58 Years Ex-General Manager Chirimiri Area S.E.C.L. At Present Working As General Manager, W.C.L. Nagpur (Maharashtra), R/o D-2/2, W.C.L. Colony Saminari Hill Nagpur, Police Station Gitti Khadan, District Nagpur, (Maharashtra)
4. Chandrika Prasad Patel S/o Ramautar Patel Aged About 54 Years R/o Bhathipara, Baikunthpur, Police Station And Tahsil Baikunthpur, District Koriya, Chhattisgarh

***---- Non-applicants***

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For applicant : Mr. Ratan Jain, applicant-in-person.

For State/Non-applicant No.01 : Mr. Alok Nigam, G.A. for the State.

For Non-applicants No.2 to 4 : Mr. Syed Majid Ali, Advocate.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**CAV Order**

**10/11/2021**

1. This is an application under Section 439(2) of Cr.P.C. praying for cancellation of bail vide order dated 12.03.2019 passed in M.Cr.C.(A) Nos.294/2019, 295/2019 and 300/2019, by this Court granting anticipatory bail to the non-applicants No.2, 3 and 4.
2. Non-applicants No.2, 3 and 4 were granted anticipatory bail by this Court by this combined order on all three cases mentioned hearinabove.
3. It is submitted by the learned counsel for the applicant-in-person/petitioner that it was on his complaint, the offences under Section 218, 177, 120B, 420, 464, 466, 468, 471 and 201 read with Section 34 of I.P.C. has been registered against non-applicants No.2, 3 and 4. The non-applicants have made a false statement before this Court that the work is in progress and about 75% of the work has been completed on which basis, the High Court granted bail to the non-applicants No.2, 3 and 4. Therefore, the bail has been obtained by suppression of fact and by misleading the Court by producing false and fabricated documents. Hence, for this reason, the bail order in favour of the non-applicants is liable to be cancelled.
4. It is further submitted that the non-applicants No.2, 3 and 4 have not complied to the conditions of the bail order and they have not given appearance before the Court. Apart from that, the Panchanama dated 05.09.2013, which is a very important evidence is now misplaced from the records deliberately. It is submitted that petition filed by non-applicant No.2 under Section 482 which is registered as Cr.M.P. No.2491 of 2019, further confirms that the statement regarding completion of 75% work is false. Referring to letter dated 29.08.2013 by Divisional Forest Officer to Chief General Manager S.E.C.L. Chirmiri. It

is submitted that in this case, there is a clear statement that the work of raising fencing of barbed wires of height six feet proposed in the safety zone was not completed till date the letter was written. The suppression of fact is further confirmed by the letter dated 04.04.2014 by the Senior Manager Civil, Chirmiri to Public Information Officer, that proposal was sent for the construction of fencing of barbed wire but no other detail are available. Hence, it can be inferred that until that date, the work was not completed. The applicant was refused grant of information by the Divisional Forest Officer. Reference has also been made to the letter dated 04.01.2014, which has been filed as Annexure A-5. The non-completion of work to the level of 75% is also mentioned in the rejection order of the Sessions Court Manendragarh. The S.H.O. of Police Station Chirmiri had also opposed the grant of bail making this statement that the report given regarding completion of 75% work is false. This statement was made during the pendency of investigation.

5. Reference has been made to the letter dated 07.05.2014, the information given by the General Manager Planning and Project to the P.I.O. on the information made by the applicant and then the applicant was again refused grant of information. It is also submitted that the affidavit regarding completion of 75% work is dated prior to the work was proposed. Hence, the statement on affidavit is a false statement, hence, on this basis, it is submitted that the impugned order has been obtained from this Court by clear suspension of facts and on the basis of false and fabricated documents. Therefore, the non-applicant No.2, 3 and 4 were not entitled for grant of anticipatory bail, who have been benefitted by the impugned order, hence, the anticipatory bail granted to the non-applicant No.2, 3 and 4 may be cancelled.
6. Learned State counsel for non-applicant No.1 opposes the application

and submissions made by the applicant-in-person. It is submitted that so far the non-applicants No.2, 3 and 4 have not violated the conditions on which the anticipatory bail was granted to them. Hence, the application may be rejected.

7. Learned counsel for non-applicants No.2, 3 and 4 opposes the submissions made by the applicant-in-person and submits that in the case for grant of anticipatory bail, the applicant in person had appeared and raised objection at length on similar grounds, which are being raised in the present application. This Court while considering on the facts and circumstances has granted anticipatory bail to the non-applicants No.2, 3 and 4, therefore, there is no suppression of fact and no fabrication of documents made by the non-applicant No.2, 3 and 4. Therefore, the application for cancellation of anticipatory bail granted to these non-applicants may be rejected.
8. Considered on the submissions. The grounds for cancellation of bail raised, firstly is this that the report regarding completion of 75% work is false and the document regarding the completion of 75% work is fabricated. This objection was raised by the applicant-in-person in the hearing on the application of anticipatory bail which has been considered before ordering grant of anticipatory bail to the private non-applicants.
9. Clearly the allegation of the applicant in person in the complaint against the private non-applicants is same as mentioned hereinabove which is being made a ground for cancellation of bail. Therefore, it is a disputed question and it cannot be taken to have been established at such a preliminary stage. The statement made by the applicant in the complaint is subject to proof, if in the trial, the charges are framed against the non-applicants/non-applicants. Grant of anticipatory bail to the accused

person depends upon the facts and circumstances of the case and the accused in such a case has to make out a case of some exception in his favour. This Court has while dealing with the application for anticipatory bail held accordingly and found the non-applicants No.2, 3 and 4 entitled for grant of anticipatory bail. Further, it is already mentioned that the ground raised in this application for cancellation of bail is similar to the objection which has been already raised by the applicant in the matter of grant of anticipatory bail to the private non-applicants. As regards the non-compliance of the terms of grant of anticipatory bail. The same has to be brought to the notice of the trial Court and in case any such non-compliance is reported, the same may be subject to consideration for cancellation of bail. But so far, there is no such report before the Court, hence, after consideration of all the submissions made by both the sides, I am of this view that this application filed is not fit to be allowed. Hence, it is rejected.

10. Consequently, this application filed by the applicant under Section 439(2) of the Cr.P.C. for cancellation of bail order, is hereby rejected.

**Sd/-**  
**(Rajendra Chandra Singh Samant)**  
Judge