

HIGH COURT OF CHHATTISGARH, BILASPUR**Writ Petition (Cr.) No.61 of 2021**

Natwar Lal Agrawal, S/o Banwari Lal Agrawal, aged about 61 years, R/o Aarchi Puram, 2, H.No.21-22, P.S. Dunga, Shivni, Tahsil Shivni, District Sivni (M.P.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Ministry of Home, Secretariat, Capital Complex, Mahanadi Bhawan, Naya Raipur, District Raipur.
2. Economic Offences Wing, in front of Jai Jawan Petrol Pump, Telibandha, Raipur (C.G.)

---- Respondents

Writ Petition (Cr.) No.66 of 2021

Krishnakant Vashista, S/o Late Ramkalyan Vashisht, aged about 72 years, Executive Engineer, Jal Sansadhan Sambhag, Kanker, R/o Saddani Chowk, H.No.322, Budhapara, Raipur (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Ministry of Home, Secretariat, Capital Complex, Mahanadi Bhawan, Naya Raipur, District Raipur.
2. Economic Offences Wing, in front of Jai Jawan Petrol Pump, Telibandha, Raipur (C.G.)

---- Respondents

Writ Petition (Cr.) No.68 of 2021

Dipak Kumar Pathak, S/o Shri Upendra Nath Pathak, aged about 53 years, R/o Near Govt. Boys School, Kriparam Sahu Bada, Vindhyavasini Ward, Dhamtari, District Dhamtari (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Ministry of Home, Secretariat, Capital Complex, Mahanadi Bhawan, Naya Raipur, District Raipur.
2. Economic Offences Wing, in front of Jai Jawan Petrol Pump, Telibandha, Raipur (C.G.)

---- Respondents

Writ Petition (Cr.) No.70 of 2021

Ashok Kumar Gajbhiye, S/o Late Shri M.D. Gajbhiye, aged about 66 years, R/o Ward No.1, Budhi, Balaghat, Near Kamla Higher Secondary School, Budhi, P.S. Balaghat (M.P.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Ministry of Home, Secretariat, Capital Complex, Mahanadi Bhawan, Naya Raipur, District Raipur.
2. Economic Offences Wing, in front of Jai Jawan Petrol Pump, Telibandha, Raipur (C.G.)

---- Respondents

ANDWrit Petition (Cr.) No.72 of 2021

Ashok Kumar Verma, S/o Shri Bisahu Ram Verma, aged about 61 years, R/o House No.C/15, Amaltas Puram, Gokulpur Colony, Dhamtari, District Dhamtari (C.G.)

---- Petitioner

Versus

1. State of Chhattisgarh, through the Ministry of Home, Secretariat, Capital Complex, Mahanadi Bhawan, Naya Raipur, District Raipur.
2. Economic Offences Wing, in front of Jai Jawan Petrol Pump, Telibandha, Raipur (C.G.)

---- Respondents

For Petitioners: Mr. Hari Agrawal, Advocate.
 For Respondents / State: -
 Mr. Jitendra Pali, Deputy Advocate General,
 on advance copy.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

01/02/2021

1. Heard on admission.
2. This batch of writ petitions has been filed by the petitioners herein stating inter alia that by notice dated 24-11-2020, respondent No.2 has directed them to appear before him in connection with Crime No.42/1996 for offence under Sections 420, 120B of the IPC and Section 13(1)(d) read with Section 13(2) of the Prevention of Corruption Act, 1988 during the COVID-19 period which is in violation of their fundamental right guaranteed under Article 21 of

the Constitution of India.

3. Mr. Hari Agrawal, learned counsel appearing for the petitioners, would submit that the direction of respondent No.2 – Investigating Officer to appear before him for further action pursuant to registration of the said offence / grant of anticipatory bail is violative of right to life of the petitioners guaranteed under Article 21 of the Constitution of India during this COVID-19 period and thus, compelling their attendance physically in the present situation of pandemic is violative of right to life guaranteed under Article 21 of the Constitution of India. He would further submit that the direction as issued in W.P.(Cr.)No.408/2020 (Baldau Ram Chandrakar v. State of Chhattisgarh and another), decided on 19-11-2020, filed as Annexure P-4, be passed granting liberty to make representation to respondent No.2.
4. Mr. Jitendra Pali, learned State counsel, would submit that the petitioners are required to appear, as the date fixed had already elapsed i.e. 8-12-2020 and these petitions have been filed to delay the investigation which is on the verge of completion.
5. By virtue of Article 21 of the Constitution of India, right to life and personal liberty cannot be deprived of without following the procedure established by law. Investigation into offence is a procedure established by law i.e. the Code of Criminal Procedure, 1973 and power to investigate is conferred by law upon the police / State authority. Investigation cannot be interfered with or influenced by the Court in this way.
6. In the notice dated 24-11-2020 issued by the investigating officer, the order passed by this Court in M.Cr.C.(A)No.1829/2019 dated 27-2-2020 has also been referred. In fact, the petitioners are

obliged to appear before the investigating officer physically as directed by him for further appropriate action, as they have been admitted the privilege of anticipatory bail. It is not the case that the office of respondent No.2 is in containment zone, therefore, they cannot appear physically before the investigating officer. It is appropriate to notice here that the investigating officer required the petitioners to appear on 8-12-2020, whereas the writ petitions have been filed on 17-12-2020. The petitioners cannot be allowed to unnecessarily take advantage of the situation. If they have *bona fide* any health issue, they can definitely make representation along with supporting document(s) and in that case, the investigating officer may consider their representation in light of the supported document(s). However, the petitioners cannot unnecessarily avoid appearance citing lock-down as most restrictions imposed in respect of COVID-19 have been lifted and remaining guidelines have been diluted by the Central Government / State Government. However, respondent No.2 will ensure that all precautions qua health as directed by the Central Government / State Government are observed strictly as and when the petitioners appear before him.

7. With the aforesaid observations / directions, the writ petitions are disposed off. No order as to cost(s).

Sd/-
(Sanjay K. Agrawal)
Judge