

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C (A) No. 368 of 2015**

Ranchor Patel S/o Late Shri Mohan Lal, aged about 75 years,
R/o Kunal Hotel, Green Chowk, Station Road, PS Mohan Nagar,
Durg, Tah. & District Durg (C.G.)

---- Applicant**Versus**

1. State Of Chhattisgarh through the Station House Officer, Police Station Mohan Nagar, Durg, District Durg Chhattisgarh.
2. Bhikhi Bai W/o W/o Late Shri Manilal Patel Aged About 55 Years
3. Ashish Kumar S/o Late Shri Manilal Patel Aged About 32 Years

Respondents No. 2 & 3 are resident of Village Maktupur, Tah. Unja, Distt. Mehsana (Gujrat).

4. Vinod Kumar S/o Late Shri Manilal Patel Aged About 34 Years
R/o H.No. 91, Jawahar Nagar, Ps Mohan Nagar, Durg, Tah. & Distt. Durg (C.G.)

---- Respondents

For Petitioner:	Shri Rajeev Shrivastava, Advocate.
For Respondent No.1/State:	Shri Anupam Dubey, Deputy Govt. Advocate.
For Respondent No. 3:	Shri A.C. Sahu, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal**Order On Board****06/08/2015**

Heard.

(1) In a criminal compliant filed by Maniram Patel, Bheekhi Bai, Kamlesh Kumar, Ashish Kumar & Vinod Kumar stating *inter alia* that the present applicant in collusion with his son Naveen Kumar

Patel prepared forged power of attorney of the complainants on 2.8.1991 and sold 2.50 acres of land to the different persons and thereby cheated the complainants and committed the aforesaid offences.

(2) The trial Magistrate, by its order dated, 1.10.2014 took cognizance against present applicant only for offences punishable under Sections 420, 467, 468 & 471 of the Indian Penal Code and issued process and apprehending his arrest in connection with this complaint case, the present applicant has filed this anticipatory bail under Section 438 of the Code of Criminal Procedure.

(3) Mr. Rajeev Shrivastava, counsel for the applicant would submit that complainant Manilal Patel is his younger brother of the applicant and Bhikhi Bai, respondent No. 2 herein, is his younger brother's wife whereas respondents/complainants No. 3 & 4 are his nephew and, as such, there is a dispute of landed property in the family; and allegation against the applicant is that he has sold 2.50 acres of land fell in their share by forged power of attorney, which is false allegations against the present applicant, who is 75 years old, Senior Citizen. He further submit that FIR to this effect was already made in the Police Station, Durg and submitted a report to the Deputy Superintendent of Police, Durg, in which, police has not found favour of the complaint made by the complainant party and, thereafter, on

8.6.2012 a belated complaint has been filed against the present applicant, in which, process has been issued against the applicant. He further submits that the parties are closely related with each other and the transaction is said to be of the year 1992 onwards and the FIR to this effect has been lodged on 8.6.2012 and there is no explanation for the delay in filing the report. He also submits that power of attorney has not been examined by hand writing expert and the applicant is ready and willing to co-operate with the trial and, therefore, the applicant may be extended the benefit of Section 438 of the Code of Criminal Procedure.

(4) On the other hand, Shri A.C. Sahu, counsel for the respondents No. 2 to 4/complainants would submit that taking the benefit of their minority showing the respondents No. 3 & 4 as major, forged power of attorney was prepared and their property was sold and consideration amount was misappropriated by the applicant, who is their real uncle and, as such, it is a case of forgery and, therefore, application for anticipatory bail deserves to be rejected.

(5) It is not in dispute that applicant and the original complainant Shri Manilal Patel are the real brothers and the complainants No. 3 & 4 are the real nephew of the present applicant. It is also not in dispute that applicant has allegedly executed forged power of attorney on 2.8.1991 i.e. prior to the date of filing of complaint

i.e. 08.06.2012. It is also not in dispute that complainants came to know about the said transaction according to their own version in the year 2004 whereas the complaint has been filed on 8.6.2012. The complaint filed by the complainants is pending consideration before the competent criminal court; and it is also on record that FIR made by the complainants to the Police Station, Durg was not found favour by the State authorities and it was closed. It is also not in dispute that applicant is aged about 75 years and elder member of the family.

(6) Taking into consideration the facts & circumstances of the case; considering relationship of the complainants and the applicant, who are said to be close relative i.e. brother & nephew; and power of attorney is of the year 1991 whereas the complaint was filed on 8.6.2012; and the police has also closed the case filed by some of the complainants; and the applicant is old aged persons i.e. 75 years and lastly considering the fact that parties are litigating over the said dispute for the last 3-4 years; and it is not shown that he is likely to abscond, if granted anticipatory bail, this Court is of the view that it is a fit case to grant anticipatory bail to the applicant; this Court is of the view that it is a fit case to grant anticipatory bail to the applicant. Accordingly, the application is allowed. It is directed that in the event of arrest, the applicant shall be released on bail on his furnishing a bond in the sum of Rs.25,000/- with one surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all

the following terms and conditions:

(i) that the accused/applicant shall make himself available for interrogation before the concerned Investigating Officer as and when required.

(ii) that the accused/applicant 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 to any police officer;

(iii) that the accused/applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

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

Certified copy, as per rules.

Sd/-
(Sanjay K. Agrawal)
Judge

D/-