

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.No.3715 of 2015**

Mohan Shrivass S/o Hiralal Shrivass, aged about 34 years, Computer Operator, Veterinary Department (Pasu Vibhag), R/o Basantpur, Ward 38/43, P.S. Basantpur, Tahsil & Dist.Rajandgaon (CG)

---Applicant**Versus**

State of Chhattisgarh, Through the Station House Officer, Police Station Kotwali, Rajnandgaon (CG)

---Non-applicant

For Applicant	:	Mr. B.D.Guru, Advocate
For Non-applicant	:	Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Sanjay K. Agrawal**Order on Board****13/08/2015**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.435/2015, registered at Police Station-Kotwali, Rajnandgaon, District Rajnandgaon (CG), for the offence punishable under Sections 420 and 120B/34 of the IPC.

2. Case of the prosecution, in brief, is that the present applicant acting as Power of Attorney Holder of Prakash Patil executed sale deed in favour of Ku.Jeevarna Yadav on 13.10.2011 and transferring 10 decimal land in her favour in cash consideration of Rs.13,21,000/-, but the land so-transferred was not found on spot and thus, the applicant and other two co-accused persons have cheated the complainant and thereby committed the aforesaid offence.

3. Learned counsel for the applicant would submit that applicant has not committed any offence and has been falsely implicated in crime in question. He would further submit that the applicant has only acted on behalf of owner Prakash Patil and on the strength of Power of Attorney Holder, executed sale deed and thereafter mutation took place vide order dated 30.12.2011 by the Tahsildar and he has given entire money to owner of the land. Learned counsel would also submit that F.I.R. was lodged belatedly on 3.7.2015 alleging that the land so-transferred is not in existence on the spot and thus, the aforesaid cheating and forgery has been committed by the present applicant in collusion with other co-accused persons. The applicant is only Power of Attorney Holder and he cannot be made liable. If the alleged commission of offence is said to have been committed, the same has been committed by the owner, he cannot be prosecuted, as such, he is in jail since 4.7.2015, substantive investigation has already been made and no further interrogation is required and therefore, he may be enlarged on regular bail.

4. On the other hand, learned counsel for the State would oppose the bail application and submit that the applicant is equally responsible in commission of offence because he is instrumental in contacting with the complainant and alienating the land on behalf of owner of the land and as such, his bail application is liable to be rejected.

5. I have heard learned counsel appearing for the parties and perused the case diary.

6. Taking into consideration the facts and circumstances of the case; further taking into consideration the nature and gravity of offence; role of the present applicant, he being Power of Attorney Holder sale deed was executed in favour of the complainant on 13.10.2011, mutation was made on 30.12.2011 and F.I.R. was lodged on 3.7.2015, thereby considering the extent

of delay, the applicant is in custody since 4.7.2015, substantive investigation has already been made and considering the status of Power of Attorney Holder, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.

7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of **Rs.25,000/-** with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

9. Certified copy as per rules.

Sd/-
(Sanjay K. Agrawal)
JUDGE

B/-