NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 860 of 2015

Smt. Nisha Devi Tamrakar W/o Shri Arun Tamrakar Aged About 49 Years Occupation - House-Wife, R/o Near Onkar Marriage Palace, Banjari Nagar, Kushalpur, Raipur Police Station Purani Basti, Raipur, Tahsil, Civil And Revenue District - Raipur (Chhattisgarh).

---- Applicant

Versus

State Of Chhattisgarh Through : Station House Officer, Police Station Purani Basti, Raipur (Chhattisgarh).

---- Respondent

For Applicant	:	Shri Y.C. Sharma, Advocate
For State	:	Shri R.K. Gupta, Dy. A.G.
For Objector	:	Shri S.K. Guha, Advocate

Order On Board

09/09/2015

Heard.

1. The applicant is apprehending her arrest in connection with Crime No.24/2015 registered at Police Station-Purani Basti, Raipur (C.G.) for alleged commission of offence under Section 420, 467, 468, 471, 34 of IPC.

2. Case of the prosecution is that a forged power of attorney of complainant Kanchan Devi Chandrakar stated to be in the name of her son Vivek was got prepared and on that basis, sale deed executed and registered in the name of the applicant herein.

3. Learned counsel for the applicant submits that the story of the prosecution is not only improbable but false. He submits that on 27.01.2010, Vivek and Vijay, sons of Kanchan Devi Chandrakar executed sale deed in favour of the applicant. Thereafter, in respect of the land owned by Kanchan Devi Chandrakar, Vivek executed another sale deed in favour of the applicant on 31.03.2010 on the basis of power of attorney.

4. Now, this power of attorney is being disputed by Kanchan Devi Chandrakar. It is submitted that both power of attorney as well as sale deed are stamped and registered before the Registering Authority. Without obtaining any report of the handwriting expert, without recording the statement of Vivek, much less impleading him as accused, the offence has been registered.

5. On the other hand, learned counsel for the State and Objector oppose prayer and submits that the fraud lies in the fact that in the power of attorney, a different land was indicated, whereas in the sale deed, the description of different land, which shows that the power of attorney was a forged one.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that there is no dispute with regard to sale transaction dated 27.01.2010 executed by Vijay and Vivek in favour of the applicant and that the other power of attorney is not only registered but the sale deed dated 31.03.2010 is also registered by the Registering Authority and in these circumstances, false implication cannot be ruled out, the application is allowed.

7. Accordingly, It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail on her furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

(i) that the applicant shall make herself available for interrogation by a Police Officer as and when required;

(ii) that the 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 her from disclosing such facts to the Court or to any Police Officer.

(iii) that the 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 her by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

Manindra Mohan Shrivastava

J U D G E

Rekha