

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C.(A). No. 1153 of 2015

1. Chinmoy Davara, aged about 32 years, S/o. Shri Prakash Davara, R/o. House No. C-14 Romanesque, Labhandih, G.E. Road, Raipur, Tahsil, Civil and Revenue District – Raipur (C.G.)

----Applicant

Versus

1. State Of Chhattisgarh, Through : Station House Officer, Police Station – Telebandha, Raipur, District – Raipur (C.G.)

---- Respondent

For Applicant : Mr. Y.C. Sharma, Advocate

For Respondent/State : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

27/11/2015

1. Apprehending arrest in connection with Crime No.373/2015 registered at Police Station- Telibandha, Raipur, District - Raipur, for offence punishable under Section 420 of Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. As per the prosecution case, a land was purchased by the complainant, Rajendra Sanghani on 05.01.1988 bearing Plot No.B-55, area 2400 sq.ft. from Gayatri Grih Nirman Sahkari Samiti Maryadit, Raipur. After purchase, he constructed a super structure over the same, thereafter in the year July, 2008, when he went to the spot and found that his house is demolished and the same was sold by cooperative society in favour of Lata Devi Chhabra at that time, the said sale was made by the society, wherein the applicant was President of Gayatri Grih Nirman Sahkari Samiti.
3. Learned counsel for the applicant would submit that Gayatri Grih Nirman Sahkari Samiti had sold the land to Rajendra Sanghani on 05.01.1988, which contained a clause that within two years of

purchase, he would raise the superstructure over the land which has to be completed within three years, consequently, when the purchaser/complainant did not raise his superstructure over the land, consequently, it was cancelled by the registered cancellation deed dated 05.11.2007. Subsequently, the same was sold by the Society in favour of the Lata Devi Chhabaria on 26.05.2008, wherein the applicant was Vice President and Lata Devi Chhabaria in turn sold it to Smt. Arti Degwani subsequently in the year 2009 by registered sale deed and lastly Smt. Aarti Degwani also sold the same to Smt. Kavita Gangwani by registered sale deed dated 09.12.2010. He would further submit that before cancellation, Rajendra Sanghani was given notice that no superstructure was raised. It is further submitted that the complainant and the applicant are in relation as the applicant is maternal uncle of the complainant. He would further submit that cancellation was done according to the bye laws of the society. He would further submit that for the first time the report has been made in the year 2015 itself would show that the allegations are fabricated and false. Therefore, the counsel prays that the applicant may be extended the benefit of anticipatory bail.

4. Per contra, the learned State counsel opposes the bail.
5. I have perused the documents of the case diary, which shows that sale deed was made in favour of Rajendra Sanghani on 05.01.1988 and registered deed of cancellation was made on 05.11.2007 and subsequently, the sale was made on 26.05.2008 initially to Lata Devi Chhabra, thereafter, it was subsequently sold to Smt. Arti Degwani and lastly to Smt. Kavita Gangwani in the year 2010. Perusal of the case file would show that transactions are by registered deed and the cancellation of original sale deed in the year 2007, authenticity of same has to be adjudicated. Considering

the delay in lodging the FIR and the nature of the transaction and the fact that the complainant himself remained dormant for about more than 8 years, taking into totality, this Court is inclined to extend the benefit of anticipatory bail to the applicant.

6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating 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 him/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 him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge