

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.869 of 2015**

Sher Singh S/o Late Shri Bhimsen Arya Aged About 51 Years R/o Taigore
Nagar, Raipur, Civil & Revenue District - Raipur (Chhattisgarh).

---- Petitioner**Versus**

State Of Chhattisgarh Through : Police Station - Moudahapara, District -
Raipur (Chhattisgarh).

---- Respondent

For Petitioner	:	Shri D. K. Gwalre, Advocate
For Respondent/State	:	Shri Satish Gupta, Govt. Advocate

Order On Board**09/09/2015**

Heard.

2. The applicant is apprehending his arrest in connection with Crime No.16/2015 registered at Police Station–Moudahapara, Raipur (CG) for alleged commission of offence under Section 420 of IPC.
3. Prosecution case is that the applicant induced the complainant to enter into an agreement to sell the land comprised in Khasra No.164/17, 164/18 and a part of Khasra No.164/19 under two agreements dated 04-01-2010 and 17-02-2010 and also obtained advance payment but no sale deed was executed. Later on, it was revealed that a part of land comprised in Khasra No.164/19 was also sold by the petitioner to Kailash Chandra under registered sale deed dated 22-12-2009 that is before the execution of agreement to sell on 04-01-2010 and 17-02-2010.
4. Learned counsel for the applicant submits that even if the allegation is accepted, it is only a case of breach of agreement, for which, remedy of filing suit is there, but without taking recourse to the remedy within a period of limitation under the

law, the complainant has taken recourse to filing of FIR. It is submitted that the land comprised in Khasra No.164/17 & 164/18 are duly recorded in the name of the applicant and in so far as part of land comprised in Khasra No.164/19 is concerned, though the applicant had sold it to Kailash Chandra, later on Kailash Chandra registered power of attorney in favour of the applicant on 26-12-2009 on the strength of which, the applicant entered into an agreement to sell and this fact was known to the applicant because by that time, land records were not corrected and khasra entries clearly recorded the name of Kailash Chandra as seller in respect of land comprised in Khasra No.164/19. Therefore, there is no element of cheating.

5. On the other hand, learned State counsel opposes the bail application and submits that the dubious manner of transaction by the applicant in first selling of land comprised in Khasra No.164/19 to Kailash Chandra on 22-12-2009 and then obtaining his power of attorney and thereafter executing agreement to sell, obtaining advance and thereafter, avoiding registration of sale deed, prima facie makes out that at the very inception, there was intention to cheat.

6. Taking into consideration the submission of learned counsel for the parties, particularly taking into consideration that as far as land comprised in Khasra Nos.164/17 & 164/18 are concerned, the applicant is recorded owner and in respect of Khasra No.164/19, the applicant claims to hold the power of attorney and on the date of execution of agreement on 04-01-2010 and 17-02-2010, name of Kailash Chandra was also recorded as Bhoomiswami, I am inclined to grant anticipatory bail to the applicant.

7. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on 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 himself available for interrogation by a Police Officer as and when required;
- (ii) that he 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 from disclosing such facts to the Court or to any Police Officer.
- (iii) that he shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that he 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/-
Manindra Mohan Shrivastava
Judge