

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 695 of 2016

- Kashi Prasad Mishra S/o Shri Kamla Kant Mishra Aged About 53 Years R/o 58 Priyadarshini Nagar, Risali, P.S. Nevai, Bhilai, Tahsil & District Durg, Chhattisgarh. --- **Petitioner**

Versus

- Sanat Kumar Deshmukh S/o Late Tularam Deshmukh Aged About 63 Years R/o Village Risali, P.S. Nevai, Tahsil & District Durg, Chhattisgarh. --- **Respondent**

For the applicant : Mr. Uttam Pandey, Advocate.
For the Respondent : Mr. Praveen Dhurandhar, Adv.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

10.08.2016

1. Apprehending arrest in connection with Criminal Case No.4072 of 2016 pending before the JMFC, Durg (C.G) for the offences punishable under section 420, 467, 468, 471, 448, 120-B of IPC, the applicant has filed this application u/s 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, the applicant being the President of Chhattisgarh Sahkari Grih Nirman Samiti, Durg has purchased 3 acres of land in the year 1989-1990 and apart from this, he got manipulated additional land of 1.62 acres and after developing the land, the plots were sold to other members of the Society.
3. Learned counsel for the applicant submits that the purchase was made in the year 1989 and the lands were developed and if their land has been encroached according to the complainant then the complainant should have filed a civil suit. He further submits that after dissolution, the said Housing Society has been merged into the Registrar and personal grievances have been redressed by the applicant, therefore, considering the nature of dispute, the applicant may be admitted to anticipatory bail.
4. Per contra, learned counsel for the respondent opposes the prayer for grant of bail and submits that by manipulation of documents & map the additional land of 1.62 acres was encroached upon by the applicant and sold it to different

purchasers.

5. Perused the primary documents filed along-with this petition. Considering the nature of dispute and the lapse of time, it appears that the dispute necessarily raises question of encroachment which *prima facie* appears to be civil nature.

6. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid criminal case, he shall be released on bail on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court.

The applicant shall also abide by the following conditions :-

- (i) that he shall make himself available for interrogation before the investigating 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/her from disclosing such facts to the Court or 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.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**