

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC No. 4129 of 2016

- Anurag Konher S/O V. Konher Aged About 35 Years R/O House No. 64, Piyush Nagar, Kushalpur, P.S. Purani Basti, Raipur, Chhattisgarh.

---- Applicant (In jail)

Versus

- State Of Chhattisgarh Through The Police Station Tarbahar, District Bilaspur, Chhattisgarh.

---- Non-applicant

For Applicant : Shri Vishnu Koshta, Advocate
For Non-applicant/State : Shri Neeraj Kumar Sharma, Dy GA

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

08.08.2016

- 1) This is an application filed under Section 439 of the Code of Criminal Procedure seeking grant of regular bail to the applicant in connection with Crime No.209 of 2015, registered at PS Tarbahar, district Bilaspur (CG) for the offence punishable under Section 420 read with Section 34 of the IPC.
- 2) Case of the prosecution, in brief, is that, one Pardeshi Lal Kesharwani filed a complaint that he entered into an agreement to purchase two plots No.39 and 49, area- 1500 sq feet each at Jagannath City Phase-II, at the rate of Rs.400/- per sq feet and gave advance of Rs.3,50,000 and Rs.2,00,000/- respectively. Subsequently, he came to know that the applicant is not owner of the said plots and by false assurance, obtained the amount, thereby committed the offence.

- 3) Learned counsel for the applicant submits that the applicant is mere agent of Prithvi Assets and Vaidehi Management and Service Private Limited, It is sister concern. Nitin Beriwal, Aditya Singh and Vijay Agrawal are owners and developers of the plots, who had developed Ashish Vihar Colony and Jagannath City Phase- I & II. On a oral agreement between the Company and owners, plots are being sold for a commission of 2-5% by the applicant. The Company sold about 300 plots, out of which 240 registrations have been done, whereas 60 registrations were kept pending due to a misunderstanding between the Company and the builders. Learned counsel further submits that the nature of allegations levelled against the applicant would show that the applicant was working only as an agent of the Company, therefore, no offence is made out. Chargesheet has been filed and the applicant is in jail since 29.02.2016 whereas one co-accused Smt Vaidehi Konher was granted anticipatory bail by this Court.
- 4) Per contra, learned State Counsel opposes the prayer for grant of regular bail to the applicant, however, does not dispute the fact that the co-accused has been enlarged on bail by this Court.
- 5) Heard learned counsel for the parties and perused the case diary and the documents filed therewith. Also perused the voluminous chargesheet filed against the applicant. Therein it would show that number of transactions took place and Rs.10,00,000/- was paid by cheque No. ICICH13176043697 to Nitin Beriwal on 25.06.2013. Considering the nature of transactions and the documents, it appears that there were some dealings between the Company and the original builders as well as developers of the said plots and the applicant is not owner of the plots.

- 6) Having regard to the facts and circumstances of the case, nature of the offence; also looking to the voluminous chargesheet filed against the applicant and the fact that he is in jail since 29.02.2016 and further taking into consideration that other co-accused has been enlarged on bail, I am inclined to release the applicant on bail.
- 7) Accordingly, the bail application is allowed and the applicant is directed to be released on bail on his executing personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court. He shall also appear before the trial Court as and when directed by the said Court.
- 8) Certified copy as per rules.

Sd/-

(Goutam Bhaduri)
JUDGE