

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 34 of 2016

- Pranjai Jain S/o Padamchand Jain Aged About 35 Years
R/o Anduj Ward Mungeli, P.S. and District Mungeli
Chhattisgarh. --- **Petitioner**

Versus

- State of Chhattisgarh Through The Station House Officer,
Police Station Mungeli, District Mungeli Chhattisgarh.
Respondent

For the applicant	:	Mr. V.C. Ottalwar, Advocate.
For the Respondent	:	Mr. Sumeet Jhawar, Panel Lawyer

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

10.02.2016

1. Apprehending arrest in connection with Crime No.627 of 2015 registered at Police Station Mungeli, District Mungeli (C.G) for the offences punishable under section 420 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, a report was made by one Bahoran Dewangan and Ganesh Dewangan and others that they have agreed to purchase a land bearing Khasra No.627/3 admeasuring 0.25 acres for Rs.10 lakhs from the applicant and out of which, Rs.8,01,000/- was paid as earnest money. Subsequently it was discovered that the applicant was not the owner of land bearing Khasra No.627/3 and the said land was registered in the name of one Smt. Bela Singh. When the applicant was confronted with this fact, the applicant had shown the

other land and it is alleged that despite the fact that the applicant was not the owner of the land bearing Khasra No.627/3, he wanted to sell the same thereby the offence is committed.

3. Learned counsel for the applicant submits that initially the land was purchased by Ugra Sen by Ganesh Prasad in the year 1992. He relied on copy of the registered sale deed and would submit that after death of Ugra Sen, the land devolved on his wife Bela Singh. The applicant entered into an agreement on 23.03.2009 as per Annexure A-4 with Bela Singh and an amount of Rs.2 lakhs was paid out of the sale consideration of Rs.4 lakhs. Subsequently, an agreement was executed and it is contended that the original owner Bela Singh is ready to execute the sale deed in favour of complainants, therefore, no case is made out against the applicant.
4. Per contra, learned State Counsel opposes the bail and submits that the applicant was not the owner of land bearing Khasra No.627/2 and actually the land bearing Khasra No.627/2 belonged to Bela Singh and in any case, the applicant never became the owner of the land to execute further sale, therefore, the case is investigated.
5. I have perused the case diary and the documents.
6. The agreement by which the amount received shows that the applicant entered into an agreement to purchase the land from Bela Singh but the registry of sale was not done. The case file do not show that the applicant became the absolute owner of land at any point of time by purchasing the same by a registered sale deed. However, the applicant showing himself as

owner of the land has entered into an agreement and received the amount.

7. Taking into consideration such fact, I am of the opinion that it is not a case where the benefit of Section 438 CrPC can be extended. Accordingly, the application is dismissed.

**Sd/-
GOUTAM BHADURI
JUDGE**

/Rao/