

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 983 /2015

1. Devnarayan Parihar, S/o. Late Laxminarayan Parihar, Aged About 72 Years, R/o. House No.1540, Motipura Mohalla, Thandi Sadak Hisar, District Hisar (Hariyana).
2. Premnarayan Parihar, S/o. Late Laxminarayan Parihar, Aged About 56 Years, R/o. Gali No. 24, Near Medhki Chakki, Gurugovind Singh Nagar, Ludhiyana, District Ludhiyana (Punjab)

---- Applicants

Versus

1. State Of Chhattisgarh, Through the Station House Officer, Police Station- Gole Bazar, Raipur, District Raipur (Chhattisgarh).
2. Smt. Krishna Devi Chouhan, W/o. Pappu Singh Chouhan, Aged About 45 Years, R/o. Medta City, District Nagaur (Rajasthan).

---- Respondents

For Applicants	:	Mr. D. Kushwaha, Advocate.
For State	:	Mr. Anupam Dubey, Dy. Govt. Advocate
For Objector	:	Mr. Ankur Agrawal, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

03/02/2016

1. Apprehending arrest in connection with Complaint Case No.1043/2015 pending before the Court of Judicial Magistrate First Class, Raipur (C.G.) registered at Police Station- Gole Bazar, Raipur, District Raipur (C.G.) for the offence punishable under Section 420, 467, 468, 471 of Indian Penal Code, the applicants have preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution story, in brief, a property which was owned by Laxminarayan Parihar bearing Khasra No.230/2 was subsequently settled to be Khasra No.457 and after death of

Laxminarayan, the property devolved on the legal heirs Rukhmani Bai and Devnarayan and Premnarayan and it was further bequeathed in favour of the Premnarayan Parihar by the mother. Laxminarayan died on 13.03.1972 and mother Rukhmani Bai died on 05.05.2003 and the applicant Devnarayan & Premnarayan thereafter suppressing the facts submitted an affidavit before the Tahsildar that they are the only legal heirs and they do not have any sister got the land mutated in their name and sold the same to Ashirwad Group. Subsequently, the complainant Krishna Devi, the sister, made a complaint that the false affidavit has been shown and thereby the offence is committed.

3. Learned counsel for the applicants submits that after death of Laxminarayan, the property devolved on Rukhmani Bai and the applicants and by Will dated 03.03.1998 the property was bequeathed to Premnarayan and subsequently the names were mutated and the property was sold to Ashirwad Group. It is stated that the complainant thereafter had filed a civil suit claiming her right which was dismissed. Against that, an appeal was preferred wherein the appellate Court remanded the case to the Court below and against the remand order, the appeal has been filed before the High Court, which is pending adjudication. He therefore submits that the nature of transaction is completely civil in nature, therefore, the applicant may be enlarged on anticipatory bail.
4. Per contra, the learned State counsel and the learned counsel for the Objector opposes the prayer for grant of anticipatory bail and submits that name of sister was suppressed and further according to the Will, the property was exclusively in the name of Premnarayan and various affidavit were executed that the applicants do not have any sister and thereby the false averment has been made. He further submits that suppressing those fact

though the complainant sister alive, the applicants have sold the property to Ashirwad Group.

5. Perused the case diary and the documents. Perusal of the case diary shows that the applicants and the complainant prima facie appears that they are related, however, which is still to be established. Taking into facts of various litigation in between the parties and the evidence which are documentary in nature, in the opinion of this Court, taking into allegation and controversy in between the parties, the custodial interrogation in this case appears may not be required as the nature and the claim are appears to be civil in nature for which the parties are litigating in the civil suit and appeal, which is pending adjudication. Considering the entire facts on record, I find it to be a fit case to extend the benefit of Section 438 of Cr.P.C to the applicants.
6. Accordingly, the anticipatory bail application is allowed.
7. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting him on furnishing a personal bond to a sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court. The applicants shall also abide by the following conditions :
 - (i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;
 - (ii) that the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Ashok