

HIGH COURT OF CHHATTISGARH, BILASPURMisc. Criminal Case No.1521 of 2016

Anil Kumar Trivedi, aged 64 years, S/o Late Prabhudayal Trivedi, R/o Housing Board, Boriyakala, Police Station Tikrapara, Tahsil, Civil and Revenue District Raipur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through the Station House Officer, Police Station Bhatapara (City), Distt. Baloda Bazaar (C.G.)

---- Non-applicant

For Applicant:	Mr. Abdul Wahab Khan, Advocate.
For Non-applicant/State:	Mr. Om P. Sahu, Govt. Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

Order On Board

16/03/2016

1. The accused/applicant has moved this bail application under Section 439 of the Code of Criminal Procedure, 1973 for releasing him on regular bail during trial in connection with Crime No.208/2015 registered at Police Station Bhatapara (City), Distt. Baloda Bazaar, for the offence punishable under Section 420 of the IPC.
2. Case of the prosecution, in brief, is that the applicant purchased the house of Smt. Sushmita Mishra – complainant, by registered sale deed dated 2-1-2013 situated at Bhatapara through bank loan sanctioned on 21-12-2012 and deposited Rs.11,50,000/- in her name, but thereafter withdrawn Rs.9,00,000/- from her account and later-on given an affidavit to the bank on 4-6-2015 for recovery of the loan amount from complainant Smt. Sushmita Mishra and thereby committed the offence.
3. Learned counsel for the applicant submits that the applicant is an Advocate aged about 64 years, he has not committed any offence and he has been falsely implicated in the case. In fact, the applicant has

purchased the suit land by registered sale deed dated 2-1-2013 from the complainant through bank loan obtained by him from Bank of Baroda and the complainant has withdrawn the said amount on 21-12-2012 as such, having obtained money, the applicant has been falsely implicated in the case in which he is in jail since 15-12-2015 and charge-sheet has been filed. The incident is of 2-1-2013 and FIR has been lodged on 17-8-2015 as such there is delay of two years in lodging the FIR.

4. On the other hand, learned State counsel opposes the bail application and submits that the applicant has got the house of the complainant purchased for Rs.11,50,000/- and upon deposit of the said amount, the applicant has withdrawn Rs.9,00,000/- on different dates i.e. 17-1-2013 and 21-1-2013 and ultimately, did not pay the loan amount and submitted an affidavit/document to the bank for recovery of the said amount from the complainant and thereby cheated the complainant, as such, the applicant is not entitled to be released on bail.
5. I have heard learned counsel for the parties and perused the case diary.
6. Taking into consideration the nature and gravity of offence, facts and circumstances of the case, role of the applicant, taking into account the fact that the applicant is said to have purchased the suit land by registered sale deed dated 2-1-2013 and is said to have paid Rs.11,50,000/- to the complainant on 21-12-2012 upon loan being sanctioned from Bank of Baroda, considering the fact that the incident is of 2-1-2013 and the FIR was lodged on 17-8-2015, further taking into account that the charge-sheet has already been filed, extent of delay in lodging the FIR, the applicant is in jail since 15-12-2015, no custodial interrogation of the applicant is required, the applicant is said to be an Advocate, offence is triable by the Magistrate and taking into account the nature of dispute, I am of the opinion that the applicant deserves to

be released on regular bail. Accordingly, the application is allowed.

7. It is, therefore, directed that applicant Anil Kumar Trivedi be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Court for his appearance as and when directed.

Sd/-
(Sanjay K. Agrawal)
Judge

Soma