

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC(A) No. 403 of 2016

Boby Lukash D/o Shri L. Lukash Aged About 45 Years R/o New Shanti Nagar, Police Station Civil Line, Raipur, Distt. Raipur Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through, Station House Officer, Police Station Civil Line, Distt. Raipur Chhattisgarh.

---- Respondent

For applicant – Shri Awadh Tripathi, Advocate.

For Respondent/State – Shri Gary Mukhopadhyay, Dy.G.A.

Hon'ble Shri Justice Goutam Bhaduri

Order

3/05/2016

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending her arrest in connection with Crime No. 171/2016 registered at Police Station Civil Line, Distt. Raipur (C.G.) for offence punishable under Section 420 of IPC.

2. As per the prosecution case a report was made by one Nitin Choubey that he entered into agreement with the applicant on 4/03/2014 for purchase of land bearing khasra No.315/2 admeasuring 6136 sq.ft. After the agreement an amount of Rs.21,61,000/- was paid. Subsequently, according to the complainant, the applicant has shown some other land instead of the land which was actually agreed upon to be purchased. Thereby, offence is committed.

3. Learned counsel for the applicant submits that the applicant had purchased the land from Grih Nirman Sahkari Samiti in the year 2009 by sale deed dated 10/12/2009 which is filed as Annexure A-2 wherein the boundary of the subject land are shown. Subsequently, said land was agreed to be purchased by the complainant and according to the

agreement one lakh rupees was paid. He submits that boundary of the land which was purchased by the cooperative society was same which has been mentioned in the agreement of sale. Thereafter, in the agreement it was agreed that complainant shall get his name mutated in the revenue record. Further it is submitted that after agreement of sale, the complainant did not pay the amount, therefore notice for specific performance was issued and in response to that a report has been lodged by the complainant. It is further submitted that complainant without being owner had entered into sale of such land with another purchasers for higher inflated sale consideration @ Rs.1675 per sq.ft. He therefore submits that it is out and out civil dispute and in order to avoid payment and since complainant himself has entered into agreement with other purchasers false allegations have been levelled.

4. Learned State counsel opposes the prayer for grant of bail.

5. I have perused the case diary and the documents attached with the bail application. Sale of land was initially made by Grih Nirman Sahkari Samiti in favour of the applicant in the year 2009 and the sale deed engrafts boundary of the land. Same land appears to have been agreed to be purchased by the complainant Nitin Choubey. Record would show that after sale deed was executed notice was served to Nitin Choubey and agreement was also executed by Nitin Choubey with one Dharmendra Prakash Pujari, Rekha Sharma and Krishna Sharma. If allegations of the applicant are taken boundary of the sale deed would show that same land was agreed to be purchased by the complainant which was subsequently was agreed to be sold by complainant to others. In view of this, considering the nature of dispute which appears to be purely civil in nature, I am inclined to extend benefit of anticipatory bail to the applicant.

6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail by the officer arresting her on executing a personal bond in sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:-

- (i) that the applicant shall make herself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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 applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) the applicant shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
JUDGE