

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A) No. 502 of 2016

Rajeev Choubey (wrongly mentioned in order impugned As Raju Choubey) S/o Shri B.K. Choubey Aged About 48 Years , President, Smriti Grih Nirman Sahkari Sanstha Maryadit, R/o A/79, Street No. 27, Smriti Nagar, Bhilai, Tahsil & District Durg Chhattisgarh.

---- Applicant

Versus

1. Sandeep Agrawal S/o Late A.K. Agrawal, Aged About 40 Years, R/o Block No. 29, Plot No. 04, Nehru Nagar(East), Bhilai, Tahsil & Distt. Durg Chhattisgarh.
2. State Of Chhattisgarh Through District Magistrate, Durg Chhattisgarh.

---- Respondents

For applicant – Smt. Fouzia Mirza, Advocate.

For Respondent/State – Shri Neeraj Sharma, Dy.G.A.

For Objector – Shri H.B. Agrawal, Sr. Advocate with Smt. Iturani Mukherjee, Advocates.

Hon'ble Shri Justice Goutam Bhaduri

Order

27/07/2016

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Complaint Case No. 330/2016 pending before the court of Judicial Magistrate First Class, Durg (C.G.) for offence punishable under Sections 420, 467, 471 of the Indian Penal Code.

2. As per the case of the complainant is that on 30/01/2003 a sale deed was executed by Smriti Grih Nirman Sahkari Sanstha Maryadit through its the then President Pramod Upadhyay in favour of the applicant and subsequently on 30/05/2005 in respect of the same plot again a sale deed was executed in favour of Ballu Singh by the then President Pramod Upadhyay. Subsequently, the applicant took over the charge of the Smriti Grih Nirman Sahkari Sanstha Maryadit and since the sale deed contains a clause that in case construction is not carried out within 5 years, then it will be reverted back to the society. Notice was issued to the complainant

for imposing fine of Rs.15,000/- for not raising construction. Since notices were given to both the purchasers, as such complaint was subsequently filed.

3. Learned counsel for the applicant submits that both the sale deeds were made in the year 2003 and 2005 prior to the applicant taking over charge as a President and the applicant has only issued the notice of imposing fine as per list supplied to him being President and no criminality can be attached to him, therefore applicant may be granted benefit of anticipatory bail.

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

5. Perused the documents filed by the applicant as also by the objector. Also perused the sale deed dated 30/01/2003 and 30/05/2005 as also notice. Considering the facts of this case, it appears that entire allegation pertains prior to the applicant took over the charge as a President of the society, therefore 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, he shall be released on bail on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial court. The applicant shall also abide by the following conditions:-

(i) 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;

(ii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iii) the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
JUDGE