

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 753 of 2016**

- Pooja Agrawal W/O Praveen Kumar Agrawal Aged About 36 Years R/O Adarsh Nagar, Seetapur, Police Station & Post Seetapur, District Surguja Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through : Police Station Seetapur, District Surguja Chhattisgarh
- Savitri D/O Tilu Das Aged About 39 Years R/O. Village Sontarai, Post Devgarh, Police Station Seetapur, District Surguja Chhattisgarh

---- Respondent

For Applicant	:	Mr. Manoj Paranjpe, Advocate
For Respondent No.1/State	:	Mr. Sumit Jhawar, Panel Lawyer.
For respondent No.2/Objector	:	Mr. Sunil Tripathi, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****26-08-2016**

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. 56 of 2016 registered at Police Station Seetapur, District Surguja (CG) for offence punishable under Sections 420, 465 and 468 read with Section 34 of IPC.
2. Case of the prosecution case, in brief, is that a complaint was filed by non-applicant No.2/complainant namely Savitri that the applicant in connivance with other co-accused persons got sale deed executed on 18-8-2008 for sale of land bearing Khasra Nos. 1090, 1147 & 1212 and further by way of agreement dated 15-7-2008 the applicant purported to have sold the land bearing khasra No. 622 and 623 situated at village Sontarai. It is alleged that the

applicant in fact has not purchased the land, but some loan was taken by forged documents. Though the agreement was not executed, but the applicant got the land mutated in his favour in connivance with Sarpanch, Revenue Officer and Patwari and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that initially on 18-8-2008 sale deed was executed for sale of land bearing Khasra Nos 1090, 1147 & 1212 which was a registered sale deed and agreement dated 15-7-2008 was in respect of land bearing Khasra Nos. 622 and 623. It is further submitted that subsequently an application was filed by the complainant under Chhattisgarh Samaj Ke Kamjor Varg Ke Krishi Bhoomi Dhaarkon Ka Udhar Dene Valon Ke Bhoomi Hadapne Sambandhi Kuchakron Se Paritran Tatha Mukti Adhiniyam, 1976, wherein S.D.O., by an order dated 19-2-2016 directed to revert back the land to the complainant. The same was challenged before the Collector by applicant and others. In such statutory appeal, order of SDO was stayed on 8-3-2016. Subsequently, the Collector withdrew the same by an order dated 14-3-2016 which was subjected of challenge in Writ Petition (C) No. 801 of 2016 wherein the order of withdrawal of stay was stayed by High Court by order dated 1-4-2016. It is further submitted that issue was under subjudice before statutory Appellate Authority and the writ petition is pending, therefore, at this stage, it would not be proper to give any finding about validity of such transaction. It is further contended that giving any finding in criminal case would amount to defeat the right of the applicant. He would further submit that in facts of case no further investigation is necessary, therefore the applicant may be granted benefit of anticipatory bail.

4. Per contra, Learned State counsel and objector opposing the prayer for grant of anticipatory bail would submit that on the basis of forged documents, applicant got the land mutated in his favour and though the sale deed was not executed but on the basis of forged documents the applicant got the sale deed registered in connivance with other co-accused persons, therefore, considering the facts and circumstances of the case and the conduct of the applicant, benefit of anticipatory may not be extended to the applicant.
5. I have heard learned counsel for the parties and have perused the case diary.
6. Perused the documents filed along with the bail application as also the documents filed along with objection which purports the order dated 19-2-2016 passed by the SDO wherein SDO had directed that the land be reverted back to the complainant which also reveals that statutory appeal was filed which is pending consideration and during pendency of the matter when stay was vacated, the matter was challenged in writ petition wherein co-ordinate Bench of this Court has also stayed the vacating order.
7. Considering the totality of the facts and circumstances of the case, and further considering the fact that issue involved in the matter which appears, *prima facie*, that the matter is already subjudice before the statutory authority, I am inclined to extend benefit of anticipatory bail to the applicant.
8. 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 his executing a personal bond in the sum of

Rs.25,000/- with one local surety in the like sum to the satisfaction of the trial Court. The applicant shall also abide by the following conditions:

- (i) that the applicant shall appear before the Magistrate First Class, before whom the private complaint is pending, within a period of fifteen days and shall furnish bail for the amount as may be fixed by the Magistrate.
- (ii) that the applicant shall regularly appear before the Magistrate and co-operate in the quick disposal of the private complaint.
- (iii) 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 from disclosing such facts to the Court or to any police officer on enquiry.

Certified copy as per rules.

Sd/-
(Goutam Bhaduri)
Judge

Raju