

HIGH COURT OF CHHATTISGARH, BILASPUR

Misc. Criminal Case No.7684 of 2015

Nitin Chopda, S/o Shri Raj Kumar Chopda, aged about 32 years, R/o Vineet Estate, Shanker Nagar, Raipur, P.S. Civil Lines, Civil & Revenue Distt. Raipur (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through Station House Officer, Police Station Civil Lines, Civil & Revenue Distt. Raipur (C.G.)

---- Non-applicant

For Applicant:	Mr. Surendra Singh, Senior Advocate with Mr. Sunil Sahu, Advocate.
For Non-applicant/State:	Mr. Om P. Sahu, Govt. Advocate.
For Objector:	Mr. Prasoon Agrawal, Advocate.

Hon'ble Shri Justice Sanjay K. Agrawal

CAV Order

22/02/2016

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.414/2011, registered at Police Station Civil Lines, Raipur, for the offence punishable under Sections 456, 386, 294, 506B, 365, 342, 120B, 467, 468 and 471 of the IPC.
2. Case of the prosecution, in brief, is that on 6-9-2010, the applicant along with co-accused Abhinandan came to the house of complainant Vimal Jain and illegally confined his son Vipul Jain under the administration of threats and snatched his two cell phones and threatened the complainant that his son Vipul Jain is in their custody and an amount to the extent of Rs.26 lakhs be returned, and forcefully got the signatures of the complainant and his wife Smt. Sushila Jain on a blank stamp paper and

Vipul Jain was released subsequently, and thereby committed the offence.

3. Mr. Surendra Singh, learned Senior Counsel appearing for the applicant, would submit that the incident is of 6-9-2010 and FIR has been lodged on 29-11-2011, thus, there is delay of 14 months in lodging the FIR and it is a civil dispute between the parties which is apparent from the fact that there is an agreement to sale between the parties executed on 6-9-2010 and thereafter, the applicant's counsel Shri Ratan Soni has issued legal notice to complainant Vimal Jain and his wife Smt. Sushila Jain on 14-10-2010 which has been replied by the complainant on 29-12-2010 in which no such incident has been disclosed that forcefully signatures have been obtained from the complainant and his wife which goes to show that false and fabricated complaint has been lodged belatedly on 29-11-2011. Mr. Surendra Singh also referred to the statements of Prakash Chand and Ravi Verma that the story has framed and projected by the prosecution is false and fabricated. He would further submit that civil suit for specific performance of contract has already been filed by the present applicant against the complainant and his wife which is pending consideration before the jurisdictional civil court. He would also submit that co-accused Abhinandan Nathani, whose bail applications (M.Cr.C.Nos.2288/2014 & 3967/2014) were dismissed by this Court, has now been granted bail by the Court of Sessions, Raipur in Criminal Revision No.8/2015 vide order dated 22-1-2015 in exercise of power conferred under Section 437 (6) of the CrPC. The present applicant is in custody since 18-9-2015, charge-sheet has been filed and no further custodial interrogation of the applicant is required and therefore, he be released on bail. He would lastly submit

that the matter was directed to be investigated by the CID and the CID has submitted report that no such offence has been committed by the applicant.

4. On the other hand, learned State counsel while opposing the bail application would submit that the applicant and co-accused have forcefully got the blank paper signed from the complainant and his wife on 6-9-2010. The applicant remained absconding since the date of FIR and only through the lookout notice issued, he could be arrested on 18-9-2015. Learned State counsel relied upon the statements of Mohd. Habib, Imtiaz Haider and Sunita Jain that the applicant is seriously involved in offence in question. He would further submit that the applicant remained unavailable for interrogation and was hiding himself at Mumbai to avoid investigation and prosecution, therefore, he should not 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; the manner in which the offence is said to have been committed; the applicant remained unavailable for investigation as well as for prosecution for unreasonably long time and could be arrested on 18-9-2015 after more than four years; apprehension of the State that he would not cooperate the trial cannot be said to have no basis; and further taking into account the material available on record against the applicant, I am not inclined to grant bail to the applicant. Consequently, the application is rejected.

Sd/-
(Sanjay K. Agrawal)
Judge