

HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 615 /2016

Ram Kishore Kabire, S/o. Late Mansharam, Aged About 48 Years,
Occupation Government Service, R/o. Nakapara, Ajad Chowk, Ward No.1,
Dongargarh, District Rajnandgaon, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through Station House Officer, Police Station
Boratlav, District Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant : Mr. V.R.Tiwari, Advocate.

For Respondent : Mr. Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

21/09/2016

1. Apprehending arrest in connection with Crime No.15/2016 registered at Police Station- Boratlav, District Rajnandgaon (C.G.) for the offence punishable under Section 420, 120-B/34 of Indian Penal Code, the applicant has preferred this application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, the applicant who was working as a Patwari of Village Bagrekasha, P.C. No.24 had given 22 point enquiry to different persons and on that basis sale of lands bearing Khasra No.765/7 of 5 Acres was made on 24.05.2013 with respect to Khasra No.765/5 of 4.10 Acres sale was executed on 24.05.2013 and for Khasra No.765/6 of 5 Acres sale was executed on 27.05.2013. The said lands were Government lands for which 22 point enquiry was supplied to the different sellers showing it to a private land and individual sellers have made the sale in favour of different purchaser; thereby the offence is committed.
3. Learned counsel for the applicant would submit that the applicant was holding the charge of Village Kalyanpur, Ramtola and was

given an additional charge of Village Bagrekasha, P.C. No.24 of which sale was executed. It is stated that while taking the charge, he was not given of the record of rights and on the basis of the Rin-pustika and B-1 when the 22 point enquiry was made, he had given the enquiry report of 22 point which was necessary for sale. He submits that the applicant since was not given the charge of the documents i.e. record of rights as such only on the basis of B-1 & other document, enquiry report was submitted of 22 point and no offence has been committed. It is further submitted that report was made on the basis of B-1 & Rin-pustika and handing over charge document dated 20.08.2012 would show no document for record of right was given. Therefore, the applicant may be enlarged on anticipatory bail.

4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.
5. Perused the handing over charge document dated 20.08.2012 which is filed by the applicant with bail. Perusal of the document placed by State would show that the charge handover was taken on 26.08.2011. So two documents appears to be existing i.e. document filed by the applicant of charge handover and taking over of 26.08.2011 whereas the another document is placed of charge handover or taking of charge dated 20.08.2012. Both the document shows different particulars of documents of Village Bagrekasha. Considering the inconsistency of the documents and the facts and circumstances of the case, this is not a case where the benefit of Section 438 of Cr.P.C. can be extended to the applicant.
6. Accordingly, the bail application filed under Section 438 of Cr.P.C. is dismissed.

Sd/-
(Goutam Bhaduri)
Judge