

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 746 of 2016

1. Jagannath Prasad S/O Chatram Kahra Aged About 45 Years R/O Shivrinarayan, Tahsil Nawagarh, District Janjgir Champa, Chhattisgarh.
2. Dharmendra S/O Ashok Kumar Sahu Aged About 36 Years R/O Shivrinarayan, Tahsil Nawagarh, District Janjgir Champa, Chhattisgarh. Pesently R/O Kasdol, Tahsil Kasdol, District Baloda Bazar Bhatapara, Chhattisgarh.

---- Applicants

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Kasdol, District Baloda Bazar Bhatapara, Chhattisgarh.
2. Basant Kesharwani S/O Late Madan Lal Kesharwani Aged About 63 Years R/O Village Transport Nagar, Korba, Police Station & District Korba, Chhattisgarh. [Complainant]

---- Respondent

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MCRCA No. 747 of 2016

1. Kundanlal S/O Pardeshi Sarthi Aged About 45 Years R/O Shivrinarayan, Tahsil Nawagarh, District Janjgir Champa, Chhattisgarh.
2. Salim S/O Sarwar Aged About 50 Years Caste Muslim, R/O Shivrinarayan, Tahsil Nawagarh, District Janjgir Champa, Chhattisgarh.

---- Applicants

Versus

1. State Of Chhattisgarh Through Station House Officer, Police Station Kasdol, District Baloda Bazar Bhatapara, Chhattisgarh.
2. Basant Kesharwani S/O Late Madan Lal Kesharwani Aged About 63 Years R/O Village Transport Nagar, Korba, Police Station & District Korba, Chhattisgarh. [Complainant]

---- Respondent

For Applicant a	:	Mr. Malay Shrivastava, Advocate
For Respondent/State	:	Mr. Neeraj Kumar Sharma, Dy.G.A.
For Objector	:	Mr. Pawan Keshwarwai, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

21-09-2016

1. At the outset, learned counsel appearing for the applicants would submit that he does not want to press anticipatory to applicant No.1 Kundanlal in M.Cr.C.(A) No. 747 of 2016 as he has been arrested by Police.
2. Accordingly, M.Cr.C.(A) No. 747 of 2016 is disposed of as having become infructuous so far as applicant No.1 Kundanlal is concerned.
3. Since the aforesaid two bail applications are in similar nature which arise out of same criminal complaint Case No. 178 of 2016, they are heard analogously and are being disposed of by this common order.
4. These applications under Section 438 of Cr.P.C have been filed by the applicants apprehending their arrest in connection with Complaint Case No. 178 of 2016 registered at Police Station Kasdol, District Baloda Bazar – Bhatapara (CG) for the offence punishable under Sections 420, 467, 468, 471, 120(B) read with Section 34 of the IPC.
5. Case of the prosecution case, in brief, is that a complaint was filed by non-applicant No.2/complainant namely Basant Kesharwani that Santosh Kumar Kesharwani got a forged Power of Attorney executed on behalf of Basant Kesharwani, Karna Kesharwani and Rukmani Kesharwani and got it registered in the year 2008 and on the basis of such Power of Attorney, Santosh Kumar Kesharwani executed a sale deed in favour of Neeranjana Agrawal and Santosh Agrawal. With respect to sale deed dated 22-6-2012 Kundanlal and Salim stood as attesting witnesses and another sale deed was dated 18-11-2013 which was executed in favour of Santosh Kumar Agrawal, the applicants Jagannath Prasad and Dharmendra stood as attesting witnesses to the sale deed. It is further alleged that the said power of attorney was forged. Consequently, subsequent sale deed on the basis of forged power of attorney was also bad and the applicants have abetted the crime and thereby the aforesaid offence was committed.

6. Learned counsel appearing for the applicants would submit that registered power of attorney was executed on 5-5-2008 and it was made a basis to execute the sale deed in favour of Santosh Kumar Agrawal and Neerajan Agrawal. He would further submit that the applicants are only attesting witnesses to the sale deed and no criminality can be attached to the applicants as Santosh Kumar Kesharwani was identified. It is further submitted that in view of the fact that sale deeds were executed in the year 2012 & 2013, the applicants may be granted benefit of anticipatory bail.
7. Per contra, Learned State counsel and objector opposed the prayer for grant of anticipatory bail and would submit that the applicants were employees of the purchaser and they were knowing the fact that the forged sale deed was executed.
8. I have heard learned counsel for the parties and have perused the case diary.
9. Perused the documents filed along with the bail application as also the documents filed along with objection which would show that two different sale deeds dated 22-6-2012 and 18-11-2013 were executed wherein the applicants stood as attesting witnesses to the sale deed executed by Santosh Kumar Kesharwani and another.
10. Considering the totality of the facts and circumstances of the case and further considering the fact that the applicants were the attesting witnesses to the sale deeds and further considering the role played by them, I am inclined to extend benefit of anticipatory bail to the applicants.
11. Accordingly, the anticipatory bail applications are allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, the applicants namely Jagannath Prasad and Dharmendra in M.Cr.C.A.No.746 of 2016 and applicant No.2 Salim in M.Cr.C.A.No.747 of 2016 shall be released on bail by the officer arresting them on each of them 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 applicants shall also abide by the following conditions:

- (i) that the applicants 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 applicants shall regularly appear before the Magistrate and co-operate in the quick disposal of the private complaint.
- (iii) that the applicants 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