

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 800 of 2016

- Bhartendu Mishra S/o Late Mitranath Mishra Aged About 50 Years R/o Baraipara, in front of Marwadi School Durg, Tahsil & District Durg Chhattisgarh --- **Applicant**

Versus

1. Smt. Archana Jha, wife of Sanjay Kumar Jha Aged About 45 Years R/o Qtr. No. 93/ B, Ruwabandha Sector, Bhilai Nagar, Tahsil & District - Durg, Chhattisgarh
2. State of Chhattisgarh through the District Magistrate Durg, Tahsil & District - Durg, Chhattisgarh --- **Respondent**

For the applicant	:	Mr. S.C. Verma, Advocate.
For the State	:	Mr. Vinod Tekam, Panel Lawyer
For the Objector	:	Mr. B.P. Gupta, Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

09.09.2016

1. Apprehending arrest in connection with Complaint Case No. 7104/2015 which is pending before the Court of JMFC Durg, Distt. Durg (C.G) for the offences punishable under sections 120-B, 415, 418, 420, 423, 424 of IPC, the applicant has filed this application u/s 438 of the Code of Criminal Procedure for grant of anticipatory bail.
2. As per the prosecution case, a complaint was filed by non-applicant No.1 Smt. Archana Jha that the property belonged to one Sidhnath Jha and after his death Bhjartendu Mishra, the present applicant who is grand son of Sidhnath filed an application for mutation wherein he has stated that he is the only heir and thereby in the mutation proceedings, fraud was played and by concealment of fact his name was recorded.

3. Learned counsel for the applicant submits that the applicant has filed the application for mutation but he has never stated that he is only legal heir and it was the duty of the revenue court to issue notice on the application for mutation and the mutation proceedings is not decided during the course of title and the civil cases are pending between the parties, therefore, no offence is committed and the applicant may be enlarged on anticipatory bail.
4. Per contra, learned State Counsel as also learned counsel for the objector vehemently opposes the prayer for grant of bail.
5. Perused the case diary documents and the objection filed by Non-Applciant No.1.
6. A perusal of the case diary and other documents would show that the case arose out of a complaint which was filed by non-applciant No.1 over a mutation proceeding where the parties are claiming their right over the properties left by Sidhnath. Taking into totality of the facts and circumstances, I am inclined to allow this application.
7. Accordingly, the application is allowed and it is directed that in the event of arrest of the applicant in connection with Criminal Case No.7104/2015, he shall be released on bail on his 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 for his appearance. The applicant shall also abide by the following conditions :-
 - (i) that, the applicant shall appear before the concerned trial Court i.e., JMFC Durg where

the 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 Court of JMFC and co-operate in 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.

C.c. as per rules.

Sd/-

**GOUTAM BHADURI
JUDGE**

Rao