

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 785 of 2016

- Smt. Kaushilya W/O Haril Minj Aged About 35 Years R/O Village Sontarai, P.S. & P.O. Sitapur, Civil And Rev. District Surguja Chhattisgarh.

---- Applicant

Versus

1. State Of Chhattisgarh Through Station House Officer, Sitapur, District Surguja Chhattisgarh.
2. Savitri D/O Teeludas Aged About 35 Years R/O Village Sontarai, P.S. & P.O. Sitapur, Civil And Rev. Distt. Surguja Chhattisgarh.

---- Respondents

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MCRCA No. 858 of 2016

- Ramkumar Ram S/O Rameshwar Ram Aged About 42 Years R/O Village Rajauti, P.S. 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	:	Ms. Priyanka Mehta, Advocate in M.Cr.C(A) No.785 of 2016
For Applicant	:	Mr. Manoj Paranjpe, Advocate in M.Cr.C.(A) No./858 of 2016
For Respondent/State	:	Mr. Vinod Tekam, Panel Lawyer
For Objector	:	Mr. Ramesh Chandra Shukla, Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

22-09-2016

1. Since the aforesaid two bail applications are in similar nature which arise out of same criminal complaint Case No. 56 of

2016, they are heard analogously and are being disposed of by this common order.

2. These applications under Section 438 of Cr.P.C have been filed by the applicants apprehending their arrest in connection with Complaint Case No. 56 of 2016 registered at Police Station Sitapur, District Surguja CG) for the offence punishable under Sections 420, 465, 468/34 of the IPC.
3. 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 person Smt. Kaushilya, who is Surpanch of village Sontarai and Patwari Ram Kumar Ram got the name mutated in respect of Khasra Nos. 622 and 623 in her name despite the fact that the said land was not sold. It was further alleged that on the basis of forged document, the land was got mutated in favour of Pooja Agrawal.
4. Learned counsel appearing for the applicants 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 applicants. He would further submit that in facts of case no further investigation is necessary, therefore the applicants may be granted benefit of anticipatory bail.

5. Per contra, Learned State counsel and objector opposed the prayer for grant of anticipatory bail and would submit that on the basis of forged documents, applicants got the land mutated in their favour in connivance with Sarpanch Patwari though the sale deed was not executed. It is further submitted that on the basis of forged documents mutation proceedings took place and as such the applicants are not entitled to anticipatory bail.
6. I have heard learned counsel for the parties and have perused the case diary.
7. Perused the documents filed along with the bail applications 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 adjudication.
8. Considering the totality of the facts and circumstances of the case, further considering the fact that mutation of the name

would not vest in the purchaser with any title and also the fact that similarly placed other co-accused has been granted benefit of anticipatory bail vide order dated 26-8-2016 passed by this Court in M.Cr.C.A.No. 753 of 2016, I am inclined to extend benefit of anticipatory bail to the applicants.

9. 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 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