

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A) No. 866 of 2016

Santosh Kumar Agrawal, S/o Chhedilal Aged About 43 Years R/o Shivrinarayan, Tahsil Nawagarh, District Janjgir Champa Chhattisgarh.

---- Applicant

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 And District Korba Chhattisgarh.

----- Respondent

And

M.Cr.C.(A) No. 867 of 2016

Niranjan Lal Agrawal S/o Satyanarayan Agrawal Aged About 58 Years R/o Shivrinarayan, Tahsil Nawagarh, District Janjgir Champa, Chhattisgarh.

---- Applicant

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.

---- Respondent

For applicants – Shri Malay Shrivastava, Advocate.
For Respondent/State – Ms. Sunita Jain, PL.

Hon'ble Shri Justice Goutam Bhaduri

Order

7/10/2016

1. Both these anticipatory bail applications are decided by this common order as they are arising out of the same crime number.
2. These applications under Section 438 of Cr.P.C. have been filed by the applicants apprehending their arrest in connection with Criminal Complaint Case No.178/2016 registered at Police Station Kasdol, District Baloda Bazar-Bhatapara (C.G.) for offence punishable under Sections

420, 467, 468, 471, 120 (B) read with 34 of the Indian Penal Code.

3. Case of the prosecution, 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 Neeranjan Agrawal and Santosh Agrawal. With respect to sale deed dated 22/06/2012 Kundanlal and Salim stood as attesting witnesses and another sale deed dated 18/11/2013 which was executed in favour of Santosh Kumar Agrawal. 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 committed the crime and thereby the aforesaid offence was committed.

4. Learned counsel for the applicants submits that registered power of attorney was executed on 5/05/2008 and it was made a basis to execute the sale deed in favour of Santosh Kumar Agrawal and Neeranjan Agrawal. It is further submitted that the applicants have purchased the land for a valuable consideration and they have not committed any offence and rather the applicants have been deceived. He further submits that similarly placed co-accused have been enlarged on bail in M.Cr.C.(A) Nos. 746 and 747 of 2016, therefore the applicants may be granted benefit of anticipatory bail.

5. Learned State counsel opposes the prayer for grant of anticipatory bail.

6. Considering the facts and circumstances of the case, further taking into fact that the applicants are the purchaser and considering the role

played by the applicants that they have parted with sale consideration and also for the fact that similarly placed co-accused have been enlarged on bail in M.Cr.C.(A) Nos. 746 and 747 of 2016, I am inclined to extend benefit of anticipatory bail to the applicants.

7. 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, they shall be released on bail by the officer arresting them on each of them executing a personal bond in sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned 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/her from disclosing such facts to the Court or to any police officer on enquiry.

Certified copy today.

Sd/-
(Goutam Bhaduri)
JUDGE