HIGH COURT OF CHHATTISGARH AT BILASPUR

M.Cr.C.(A) No. 997 /2016

Sawant Ram Dewangan, S/o. Late Chamru Prasad Dewangan, Aged About 58 Years, Revenue Inspector, District Office, Durg, R/o. Deepak Nagar Durg, Tahsil & District Durg, Chhattisgarh.

---- Applicant

Versus

1. Sanath Kumar Deshmukh, S/o. Late Tularam Deshmukh, Aged About 35 Years, R/o. Mill Para, Purani Basti, Village Risali, Police Station Newai, Tahsil & District Durg, Chhattisgarh.
2. State Of Chhattisgarh, Through District Magistrate Durg, Chhattisgarh

---- Respondent

For Applicant	:	Mr. P.R.Patankar, Advocate.
For Respondent No.1	:	Mr. Sunil Sahu, Advocate.
For State/Respondent No.2	:	Mr. Anupam Dubey, Dy. Govt. Advocate.

Hon'ble Shri Justice Goutam Bhaduri

Order On Board

02/12/2016

1. Apprehending arrest in connection with Criminal Complaint No. 4072/2016 pending before the J.M.F.C. Durg (C.G.) for the offence punishable under Sections 420, 467, 468, 471/ 34 & 120-B 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 in connivance with the President of Chhattisgarh Sahkari Grih Nirman Samiti, Durg, has manipulated the Khasra number and additional land of 1.62 Acres was added to be purchase made apart from the real purchase and thereafter the land was sold to different share-holders.

3. Learned counsel for the applicant would submit that the applicant has been falsely implicated and the case is purely civil in nature

and the complainant if aggrieved at all by the encroachment, he should have pursued the civil suit and the civil suit has already been filed after withdrawal of the writ petition bearing W.P.(227) No.324 of 2011 on 23.08.2016, therefore, in view of this and the delay caused, the applicant may be enlarged on anticipatory bail. He further submits that the similarly placed co-accused Kashi Prasad Mishra has been enlarged on anticipatory bail by this Court on 10.08.2016 in MCRCA No.695 of 2016 taking into fact that the nature of dispute is civil nature.

4. Per contra, learned State counsel opposes the prayer for grant of anticipatory bail.

5. Perused the case diary and the case file. Considering the nature of dispute and the time which is passed in between the period *prima facie* it appears that the dispute is civil in nature, therefore, I find it to be a fit case where the benefit of Section 438 of Cr.P.C. can be extended to the applicant.

6. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on furnishing a personal bond to a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Trial Court. The applicant shall also abide by the following conditions :

(i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;

(ii) 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/her from disclosing such facts to the Court or to any police officer;

(iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Goutam Bhaduri)
Judge

Ashok