

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1026 of 2016**

Prakash Agrawal S/o Shankar Lal Agrawal Aged About 38 Years
R/o Adarsh Nagar, Seetapur, Police Station And Post Seetapur,
District Surguja, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh, Through Police Station Seetapur, District
Surguja, Chhattisgarh.

---- Respondent

For applicant – Shri Manoj Paranjpe, Advocate.
For Respondent/State – Shri Neeraj Jain, G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****11/11/2016**

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Crime No.35/2016 registered at Police Station Seetapur, District Surguja (C.G.) for offence punishable under Section 420 of IPC.
2. As per the prosecution case, a complaint was filed by Savitri Bai and Lalmuni on 3/03/2016 that the applicant in connivance with other co-accused got the name mutated in respect of Khasra Nos.622 and 623 and registered sale deed dated 18/08/2008 though was executed which was without any consideration. Thereby, fraud has been played.
3. Learned counsel for the applicant submits that initially on 18/08/2008 sale deed was executed for sale of land bearing Khasra Nos.1090, 1147 & 1212 which was a registered sale deed and agreement dated 15/07/2008 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 19/02/2016 directed to revert back the land to the complainant. The was challenged before the Collector by applicant and others. In such statutory appeal, order of SDO was stayed on 8/03/2016. Subsequently, the Collector withdrew the same by an order dated 14/03/2016 which was subject of challenge in Writ Petition (C) No.801/2016 wherein the order of withdrawal of stay was stayed by High Court by order dated 1/04/2016. 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 applicant. He would further submit that in the facts of case no further investigation is necessary, therefore the applicant may be granted benefit of anticipatory bail.

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

5. Perused the documents filed alongwith the bail application which purports the order dated 19/02/2016 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.

6. 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 26/08/2016 passed by this court in M.Cr.C.(A) No.753 of 2016, I am inclined to extend benefit of anticipatory bail to the applicant.

7. 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 executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. 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) 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