

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1112 of 2016

- Smt. Bhuri Bai w/o. Kailash Patel, aged about 54 years, occupation Agriculture, r/o. Village Tendu, PS Patna, Tahsil Baikunthpur, District Koriya (CG).

---- Applicant

Versus

- State Of Chhattisgarh Through : SHO PS Baikunthpur, District Koriya (CG)

---- Respondent

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MCRCA No. 1126 of 2016

- Balram s/o. Ahibaran, Caste Bazrgah, agd about 43 years, r/o. Village Amhar, PS Patna, Tahsil Baikunthpur, District Koriya (CG)

---- Applicant

Versus

- State Of Chhattisgarh Through SHO PS Baikunthpur, District Koriya (CG)

---- Respondent

For Applicants : Mr. Ashok Kumar Shukla, Advocate

For Respondent/State : Mr. Anil S. Pandey, Govt. Advocate

Hon'ble Shri Justice Goutam Bhaduri

Order on Board

23-12-2016

1. Since both the aforesaid bail applications arise out of same Crime No. 66 of 2016 which are in similar nature, they are heard analogously and same are being disposed of by this common order.
2. Apprehending arrest in connection with Crime No. 66 of 2016 registered at Police Station Baikunthpur, District Koria (CG) for offence punishable under Sections 420, 467, 468, 471 read with Section 34 of the IPC, the applicants have preferred the bail applications under Section 438 of the Cr.P.C., for grant of anticipatory bail.

3. As per case of the prosecution, a report was made by Nawal Ram who was son of Mohan Barga that a false will was got executed in favour of Balram by Mohan Barga and on the basis of said will, different sale deeds were executed by Balram in favour of Bhuri Bai on 14-8-2015 and therefore, a report was made that on the basis of forged will, sale deed was executed and thereby the aforesaid offence has been committed.
4. Learned counsel appearing for the applicants would submit that entire nature of allegations are civil in nature and the will and subsequent will are subject of civil suit which is still pending before the Civil Court and at this stage, if a finding is given that will is forged, the entire civil suit is deemed to be decided, therefore, in the facts and circumstances of the case, the applicant Bhuri Bai is a bona fide purchaser and Balram Yadav is a beneficiary of will. He would further submit that petition under Section 482 has been filed by the petitioner Bhuri Bai wherein reply filed by the State would show that the nature of dispute is a civil, as such considering all the facts and circumstances of the case, benefit of Section 438 of the Cr.P.C., may be extended to the present applicants.
5. Learned State counsel opposes the prayer for grant of anticipatory bail and would submit that on the basis of forged will, subsequent sale deed was executed.
6. I have heard learned counsel for the parties, perused the case diary and documents in respect of the sale deed. It appears that copy of sale deed would show that civil suit is pending in respect of the sale deed dated 22-8-2011.
7. Taking into consideration all the facts and circumstances of the case and considering the fact that the disputes appears to be civil

in nature, I am of the considered opinion, *prima facie* that it is a fit case where benefit of Section 438 of Cr.P.C., can be extended to the present applicants.

8. Accordingly, the applications filed under Section 438 of the Cr.P.C., for grant of anticipatory bail 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 the sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions:

- (i) that the applicants shall make themselves available for interrogation before the Investigating Officer as and when required.
- (ii) 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;
- (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-

(Goutam Bhaduri)
Judge

Raju