

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 7223 of 2017**

Rupendra Sahu, S/o. Rikhiram Sahu, aged about 40 years, R/o. Village- Utai,
Bazar Chowk Road, Police Station – Utai, District – Durg (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through : Station House Officer, Police Station – Utai,
District – Durg, Chhattisgarh

---- Respondent

For Applicant	: Mr. B.P. Singh, Advocate
For Respondent/State	: Mr. Neeraj Jain, Govt. Advocate
For Objector	: Mr. Jaideep Singh Yadav, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**13/12/2017**

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant, who has been arrested in connection with Crime No.132/2017, registered at Police Station – Utai, District – Durg (C.G.) for the offence punishable under Section 420, 467, 120-B, 34 of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicant that applicant has been falsely implicated in this case and he is in jail since 01.11.2017. Applicant had been the owner of the disputed land vide

sale deed dated 11.05.2011, according to which, the land in question bearing Kh. No. 599/11 was purchased from the previous owner Anujram. The same land was transferred by the applicant to the complainant by sale deed dated 03.06.2012. Applicant also has got mutation in revenue records in his favour. In the application filed under Section 156 (3) of Cr.P.C., it is not stated that applicant has played the main role in so called cheating of the complainant, all the negotiation were done by the co-accused persons and then applicant was simply asked to present himself for registration of the sale deed. The present applicant has not participated in any commission of offence, hence it is prayed that applicant be enlarged on regular bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that as per the evidence collected in the investigation, the land that was shown to the purchaser/the complainant was found belonging to another person – Sanjay Shrivastava, hence, the offence of cheating is clearly made out, because of which, the applicant is not entitled for grant of bail.
4. Counsel for the Objector submits that applicant and two other co-accused persons had previously approached this Court twice for grant of anticipatory bail, but on both the occasions, their application has been rejected by this Court, thereafter, co-accused persons are still avoiding the arrest, hence, in this situation, the applicant is not entitled for grant of regular bail. It is submitted that the order passed by the trial Court taking cognizance against the applicant and other accused persons mentions about the disputed location of land, which was sold

to the complainant on the basis of the report submitted by the Revenue Officer, hence it is a clear case, where non-existing land was sold by the applicant to the complainant, hence, he is not entitled for grant of bail.

5. I have heard the learned counsel for both the parties and perused the case diary.
6. The facts of the case are these that the co-accused persons Virendra Sahu and Yashwant Sahu approached the complainant in the year 2011 offering to sale a plot and making statement that land was approved by the town planning and also made reference to forged layout map. Complainant was induced by them, after making negotiation about the price, the sale deed was executed on 03.06.2011, for which the full consideration was paid to the co-accused Virendra Sahu and Yashwant Sahu.
7. Considered the submissions made and the contents of the case diary. Although there is a dispute regarding existence or location of land but so far there is no such investigation that the land recorded in the name of the applicant is totally a non-existent land. Further looking to the role played by the applicant in commission of offence, and there is no submission that there is any requirement of applicant for the purpose of investigation, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
8. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.

9. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram