

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1405 of 2016

- Abhijeet Ashtikar S/o Late Dr. Suresh Chand Ashtikar Aged About 32 Years R/o B1/ 47, Lokmanya Housing Society, Rohinipuram, Raipur, District- Raipur, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through The Police Station- Tarbahar, Bilaspur, District- Bilaspur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Shobhit Koshta, Advocate.

For Respondent : Mr. Ashok Swarnkar, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

11/12/2017

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.209/2015 registered at Police Station-Tarbahar, District – Bilaspur(C.G.), for the offence punishable under Sections 420 r/w 34 of the Indian Penal Code (for short 'IPC').
2. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in this case. As per the complaint filed by the complainant, the main allegation is against co-accused Anurag Konher, who has induced the complainant and others to pay the consideration amount for registration of the plots, but the registration of the said plots could not be effected in favour of the said parties.

Applicant has been roped into only for the reason that he is one of Directors of Vaidehi Management and Service Private Limited. There is no specific allegation against the applicant showing his involvement in the crime in question. Hence, it is prayed that applicant be enlarged on anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that applicant being a responsible person of the company has to take responsibility of the each and every transaction which takes place on behalf of the company, and he cannot take a defence that other Directors, who participated in the said transaction, are only responsible for the same and not the applicant. Thus, the criminal responsibility of the applicant is clearly made out in this case, therefore, he is not entitled for grant of anticipatory bail.
4. Heard both the counsels and perused the case diary.
5. The facts of the case are these, that co-accused Anurag Konher forged the documents showing the ownership of Vaidehi Assets on the plot in dispute and induced complainant Pardesilal Kesharwani by saying that the said plot is available for sale. Thereafter, he entered into an agreement and received Rs.5,50,000/- as an advance by way of such inducement. The disputed plot was actually owned by one Nitin Kesharwani. On the basis of an order passed by the Court below under Section 156(3) of CrPC, FIR has been registered against the applicant and charge-sheet has been filed after completion of investigation.
6. Considering the submissions and the contents of the case diary, it appears that the main allegation is against co-accused Anurag Konher,

who appears to be Managing Director of the said company, the liability of the applicant to compensate on the basis of fraud committed is clearly under the civil jurisdiction whereas his liability under the criminal jurisdiction is still a question. Hence, on these basis, I am of this view that this is a fit case where the applicant should be enlarged on anticipatory bail.

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 his executing a personal bond in the 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) that the applicant shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

Sd/-

(Rajendra Chandra Singh Samant)
Judge