

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1092 of 2016**

- Sunil Barmecha S/o Late Shri Munnalal Barmecha Aged About 55 Years R/o Dixit Bada, Apapura, Durg, Police Station- Durg, Tahsil & District Durg, Chhattisgarh.

---- Petitioner**Versus**

1. Harjinder Singh S/o Shri Rawal Singh Aged About 52 Years R/o Nagpur Naka, Behind Kakkad Auto, Rajnandgaon, Police Station- City Kotwali Rajnandgaon, District Rajnandgaon, Chhattisgarh.
2. State of Chhattisgarh Through District Magistrate Durg, Chhattisgarh.

---- Respondent

For Applicant : Mr. Ashish Surana, Advocate

For Respondent/State : Mr. Sangarsh Pandey, Dy.G.A.

For objector : Mr. Mandeep Singh, Advocate.

Hon'ble Shri Justice Goutam Bhaduri**Order on Board****09-02-2017**

1. Apprehending arrest in connection with criminal complaint Case No.2584 of 2013 registered at Police Station Durg, District Durg (CG) for offence punishable under Sections 420, 467, 468, 471, 120-B of the IPC, the applicant has preferred this bail application under Section 438 of Cr.P.C., for grant of anticipatory bail.
2. As per case of the prosecution, one Harjinder Singh made a complaint that one Jaswinder Kaur appeared as Manjeet Kaur, the sister of Harjinder Singh and Manjeet Kaur was said to have Power of Attorney Holder for Harjinder Singh, but actually no power of attorney was ever executed either in favour of Manjeet Kaur or any one and on the basis of such forged power of attorney, Jaswinder Kaur personifying herself as Manjeet Kaur sold the

property of the complainant Harjinder Singh by sale deed dated 13-2-2016 to Deepesh Kumar Jain and Bhagwat Prasad Gupta who were identified and present applicant is a witness to the sale deed and on the basis of forged document, sale deed was executed and thereby the aforesaid offence was committed.

3. Learned counsel appearing for the applicant would submit that the applicant is only a witness to the sale deed which was made in the year 2006 and he has identified Deepesh Kumar Jain and the statement of Deepesh Kumar Jain would reveal that Jaswinder Kaur was negotiator and on the basis of that no criminality can be attributed to the present applicant as Deepesh Kumar Jain was not falsely personified and consequently no offence has been committed, therefore, the applicant may be extended the benefit of anticipatory bail.
4. On the other hand, learned State counsel as well as counsel for the objector oppose the prayer for grant of anticipatory bail. It is submitted that it is not a case of identification of affidavit and it is a case of forged document on the basis of which sale deed was executed, therefore, at this stage the applicant cannot be escaped from criminal liability.
5. I have heard learned counsel for the parties, perused the case diary and other documents.
6. From perusal of the documents, it appears that forged sale deed was executed by Jaswinder Kaur showing herself to be Manjeet Kaur and the property of complainant was sold to Deepesh Kumar Jain and Bhagwat Prasad Gupta and the present applicant appeared as witness in the said sale deed. Taking into such facts, at this stage the role played by the applicant cannot be bifurcated

that he only identified Deepesh Kumar Jain as the sale deed which is alleged to have been executed, was to be forged.

7. Considering all the facts and circumstances of the case and further considering the statement of complainant Harjinder, I am of the considered opinion *prima facie* that it is not a fit case where the benefit of Section 438 of Cr.P.C., can be extended to the present applicant.
8. Accordingly, the anticipatory bail application is liable to be and is hereby dismissed.

Sd/-
(Goutam Bhaduri)
Judge

Raju