

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. CRIMINAL CASE (A) NO. 30 OF 2017

1. Surendra Rathi, S/o Shri Lalchand Ji Rathi, aged about 45 years, R/o A/16, Mahesh Nagar, Pulgaon, Tahsil & District Durg (C.G.)
2. Madan Jain, S/o Late Mohanlal Ji Jain, aged about 68 years, R/o House No. 24, Shri Mahaveer Colony, Tahsil & District Durg (C.G.)

... Applicants

Versus

State of Chhattisgarh, through Station House Officer, Police Station- Citi Kotwali, Durg, District Durg (C.G.)

... Non-applicant

For Applicants	:	Mr. Goutam Khetrapal, Advocate.
For Non-applicant/State	:	Mr. Ashok Swarnakar, Panel Lawyer.
For Objector	:	Mr. P.R. Patankar, Advocate.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

04/05/2017

1. The present application has been filed under Section 438 of CrPC for grant of anticipatory bail to the Applicants who are apprehending their arrest in connection with Crime No. 405 of 2009, registered at Police Station- City Kotwali, Durg, District- Durg, for the offences punishable under Sections 420, 467, 468, 471, 34 of IPC.
2. Contention of the learned Counsel for the Applicants is that initially an FIR was lodged against the present Applicants in the year 2009 for the offence punishable under Section 420 of IPC. The Applicants had immediately obtained anticipatory bail from the Sessions Court itself. Subsequently, the Applicants had also obtained regular bail from the regular Trial Court. Thereafter, now after more than 7-8 years vide Annexure A-8 the Applicants have been directed to appear before the Trial Court for filing of the challan. In Annexure A-8 it is also reflected that apart from Section 420 of IPC, provisions of Section 467, 468, 471, 34 of IPC have also been added.

3. Learned Counsel for the Applicants further submits that right from the year 2009 till now, the Applicants have been on anticipatory bail initially and subsequently on regular bail and that there has been no misuse of the bail granted to the Applicants. He next submits that the Applicants are permanent residents of Durg district and that there is no likelihood of their fleeing away from the place of their residence. He also submits that only because some new Sections have been added while furnishing the charge-sheet, the present Applicants may not be arrested. The Applicants shall render full cooperation to the prosecution on every stage of trial. Based upon which, he prays for grant of anticipatory bail to the Applicants.

4. Learned Counsel for the State as well as learned Counsel for the Objector submit that it is a case where it is only subsequently that the report of the Hand Writing expert could be obtained and thereafter it has been decided to add the charges under Sections 467, 468, 471, 34 of IPC against the Applicants. They further submits that it is a case where the two Applicants have committed impersonation in executing a sale deed.

5. Be that as it may, taking into consideration the fact that the Applicants are on bail since 2009 and it is only after 7-8 years that the prosecution has now added three more Sections to Section 420 of IPC and proceeded further for filing of the challan, this Court is of the opinion that a prima face strong case for grant of anticipatory bail is made out.

6. Accordingly, it is directed that in the event of arrest of the Applicants in connection with Crime No. 405 of 2009, registered at Police Station—City Kotwali, Durg, District- Durg, for the offences punishable under Sections 420, 467, 468, 471, 34 of IPC, if each of them furnishes a personal bond for a sum of **Rs.25,000/- with one surety** of the like amount to the satisfaction of the concerned arresting/investigating officer or the

Court concerned, as the case may be, then they shall be released on bail on the following further conditions :

- (i) that the applicants shall make themselves available for interrogation before the concerned 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) that 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.

7. It is also directed that the date on which the persecution fixes the case for filing of the challan, both the Applicants shall undertake to appear before the concerned Court below.

8. The present application under Section 438 of CrPC stands allowed and disposed of accordingly.

Sd/-
(P. Sam Koshy)
Judge