

NAFR

HIGH COURT OF CHHATTISGARH AT BILASPUR

MISC. CRIMINAL CASE (A) NO. 371 OF 2017

Motilal Lodhi, S/o Late Rajaram Lodhi, aged about 73 years, R/o Contractor Colony, near Amod Bhawan, Supela, Ward No.12, Bhilai, Tahsil & District Durg (C.G.)

... Applicant

Versus

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

... Non-applicant

For Applicant	:	Mr. B.P. Singh, Advocate.
For Non-applicant/State	:	Mr. Ashok Swarnakar, Panel Lawyer.

Hon'ble Shri Justice P. Sam Koshy

Order on Board

17/05/2017

1. The present application has been filed under Section 438 of CrPC for grant of anticipatory bail to the Applicant who is apprehending his arrest in connection with Crime No. 274 of 2017, registered at Police Station-Kotwali, Durg, District- Durg, for the offence punishable under Sections 420, 406 of IPC.
2. Case of the prosecution is that the present Applicant is the father of co-accused Jairam Das Verma. Allegation is that initially on 7.5.2009 the present Applicant has executed a Power of Attorney in favour of his son-in-law Jairam Das Verma in respect of sale of property situated at Khasra No. 4736, measuring 3200 sq. ft. On the basis of the said Power of Attorney, Jairam Das Verma is said to have obtained a loan of Rs. 10 Lakh from the Bank of Maharashtra by mortgaging the said property in the Bank and in the said loan transaction the present Applicant is said to have stood as a guarantor. Subsequently, on a default of making the installments against the said loan, the Bank had issued a notice to the defaulters i.e., the present Applicant as well as Jairam Das Verma, to which the present

Applicant is said to have written a letter to the Bank authorities that they are in the process of selling of the said property and the moment the said property is sold, the entire loan amount shall be repaid by the present Applicant and his son-in-law Jairam Das Verma. Meanwhile, it is said that the present Applicant has cancelled the Power of Attorney on 24.10.2009. Thereafter, on 28.8.2015 the main accused Jairam Das Verma is said to have entered into an agreement of sale of the property belonging to the present Applicant based on the alleged Power of Attorney that he has, for an amount of Rs. 28 Lakh to the Complainant Sumit Sushilan. When the Complainant and Jairam Das Verma had reached the office of the Registrar for executing the sale deed, the Complainant came to know about the objection put forth by the Bank which had already taken steps for getting the property in the name of the Bank on the ground of default of the loan taken by the said Jairam Das Verma.

3. Learned Counsel for the Applicant submits that the entire allegation in the complaint would reflect that it is main accused Jairam Das Verma who was responsible of playing fraud with the Complainant and that the present Applicant is not responsible for the same. He however submits that undisputedly the main accused Jairam Das Verma is said to have deposited the amount of Rs. 28 Lakh received from the Complainant in the loan account of Jairam Das Verma in the Bank of Maharashtra for settlement of his loan amount. He thus submits that given the facts the present Applicant is entitled for grant of anticipatory bail.

4. Learned Counsel for the State however opposes the anticipatory bail application on the ground that the present Applicant knowing fully well that the Power of Attorney has been cancelled has not disclosed these facts to the Complainant at the time of negotiation as well as when the sale deed was to be executed. He further submits that the Applicant has also given

an undertaking to the Bank authorities of making the entire payment at the earliest and thereafter he should have made all endeavours in getting the sale deed executed in favour of the Complainant.

5. Be that as it may, taking into consideration the nature of the complaint as it stands on the basis of the averments made by the Complainant, it reflects that the present Applicant has not entered into any sort of a dealing with the Complainant rather it is the co-accused Jairam Das Verma, the son-in-law of the Applicant, who had entered into a deal with the Complainant. Further, it also reflects that the loan amount was originally in the name of Jairam Das Verma and it is he who has deposited the entire amount in the Bank also accepting the same from the Complainant.

6. Taking into consideration the said facts, this Court is of the opinion that a prima facie strong case is made out for grant of anticipatory bail.

7. Accordingly, the present application under Section 438 of CrPC is allowed. It is directed that in the event of arrest of the Applicant in connection with Crime No. 274 of 2017, registered at Police Station- Kotwali, Durg, District- Durg, for the offence punishable under Sections 420, 406 of IPC, if he 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 he shall be released on bail on the following further conditions :

- (i) that the applicant shall make himself available for interrogation before the concerned 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 him by the said Court till disposal of the trial.

Sd/-

(P. Sam Koshy)
Judge

/sharad/