

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 399 of 2017**

Smt. Sharda Singh W/o Vijendra Sanjay Singh, Aged About 47 Years R/o Flat No. 505, City Paradise, Khanij Nagar, V. I. P. Road, Raipur, Tehsil And District- Raipur, Chhattisgarh.

---- Applicant

Versus

The State Of Chhattisgarh Through- Police Station Incharge, Police Station- Civil Lines, Raipur, District- Raipur Chhattisgarh.

---- Respondent

For Applicant	:	Shri Ankit Singhal, Advocate
For Respondent / State	:	Shri D.R.Minj, Dy.G.A.
For Objector	:	Shri Sunil Otواني, Advocate

Hon'ble Shri Justice P. Sam Koshy**Order On Board****15/06/2017**

Heard.

The applicant is apprehending her arrest in connection with Crime No.588/2016 registered at police station – Civil Lines, Raipur, CG for alleged commission of offence under Section 420 of IPC.

2. Case of the prosecution is that the present applicant, who is the owner of the property at Raipur, is said to have entered into an agreement of sale on the sale consideration of Rs.1.30 crores. As the property was initially mortgaged with the HDFC bank, the applicant requested the complainant to pay an amount of Rs.21 lakhs in addition to Rs.30 lakhs paid in advance at the time of execution of agreement so that the property which was mortgaged with the bank can be released and the documents can be obtained. Even after getting the property released from the bank on payment of money due for payment to the bank, the present applicant is said to have refused to get the sale deed executed and in

course of refund of amount of Rs.51 lakhs already received, the complainant issued a cheque. When the said cheque was put for realization in the bank, it was dishonoured due to insufficient fund. Upon dishonour of the cheque, the complainant is said to have met the present applicant and the applicant has assured the complainant to put the cheque in the bank again, meanwhile, she will ensure sufficient fund in the account. Thereafter, the bank authorities were instructed by the applicant not to release payment and then the bank refused to encash the cheque due to stop payment of the cheque. It is thereafter that present complaint was lodged by the complainant before the police authorities alleging an act of fraud and cheating by the applicant.

3. Learned counsel for the applicant submits that it is purely a civil dispute between the applicant and the complainant and that the complainant has a remedy of initiating proceedings under Section 138 of Negotiable Instruments Act and also civil proceedings against the applicant. It is submitted that there is no element of cheating on the part of the applicant.

4. Learned State counsel and counsel for the objector, however, oppose the bail application on the ground that the intention of the applicant all along was to defraud the complainant and in the process, obtained an amount of more than Rs.51 lakhs with malafide intention and she thereby refused to execute the sale deed in the light of the agreement to sell.

5. From the averments made by the counsel for either side, it is reflected that admittedly there is an agreement to sell which has not been honoured by the applicant. It is also not in dispute that the applicant, towards refund of the advance money, issued a cheque to the complainant. *Prima facie*, it appears to be a clear case of civil dispute between the applicant and the complainant against a property which is owned by the applicant.

In the given facts and circumstances of the case, considering the nature of dispute and also that the applicant is a lady, this Court is inclined to grant anticipatory bail to the applicant.

6. Accordingly, this application is allowed. It is directed that in the event of arrest of applicant in connection with the aforesaid offence, she shall be released on bail on furnishing a personal bond in the sum of Rs.25,000/- along with one

surety for the like amount to the satisfaction of the arresting officer and she shall abide by all the following terms and conditions -

- (i) that the applicant shall make herself available for interrogation by a Police Officer as and when required;
- (ii) that she 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 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 her by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(P. Sam Koshy)
V. Judge