

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 4693 of 2017**

1. Ashish Jain S/o Late Rajendra Kumar Jain Aged About 40 Years R/o 22, Prem Pushp Vihar, Jalvihar Colony, Raipur, Chhattisgarh.
2. Vikas Jain S/o Late Rajendra Kumar Jain Aged About 45 Years R/o 22, Prem Pushp Vihar, Jalvihar Colony, Raipur, Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station - Telilbandha, Raipur, District Raipur, Chhattisgarh.

---- Non-applicant

For Applicants : Shri Rajeev Shrivastava, Advocate.

For Non-applicant : Shri Anil S. Pandey, Government Advocate

Hon'ble Shri Justice Sharad Kumar Gupta**Order On Board****01.11.2017**

1. This is first bail application under Section 439 of the Cr.P.C. preferred by the applicants before this Court and no other bail application is pending before any other Court.
2. Perused the copy of charge-sheet provided by the learned counsel for the applicants in connection with crime No. 355/2016 registered at Police Station – Telibandha, District - Raipur (C.G.) for the offence punishable under Sections 420, 34 of the Indian Penal Code.
3. Case of the prosecution, in brief is that the applicant No.1 Ashish Jain had sold a Flat No. 102 to the applicant No.2 Vikash Jain on 18.01.2006. The applicant No.2 had taken the loan of Rs. 14,00000/- from the HDFC Bank. The applicant No. 2 again sold the flat to the Complainant Smt. Kanan Girishchand Agrawal on 13.03.2006 for an amount of Rs. 1620000/-. Both the applicants have not brought the

aforesaid facts to the said Complainant that the said property is mortgaged with HDFC Bank and thus committed cheating with the Complainant. The said flat is situated in Khushi Residency at Raipur. As per the copy of the Zerayam there are 8 cases registered against the applicants.

4. Learned counsel for the applicants submits that the flat is already in the possession of the complainant, the applicants have not tried to cause any loss to the Complainant or any wrongful gain to themselves. They are in jail since 08.11.2016 as such they are in custody for the last around 12 months, they are the permanent residents of Raipur therefore there is no any likelihood of absconding, they are ready to furnish adequate surety and to abide by all the directions and conditions which may be imposed by the Court, hence the applicants may be enlarged on bail.

5. On the other hand, learned counsel for the State opposes the bail application.

6. Looking to the facts and circumstances of the case, looking to the seriousness of the offence, looking to the impact of granting bail to the applicants on society, this Court is not inclined to give benefit of Section 439 of the Cr.P.C. to the applicants.

7. Consequently, the present bail application is rejected.

8. Certified copy as per rules.

Sd/-

(Sharad Kumar Gupta)
JUDGE