

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 661 of 2017**

- Durgesh Thakur S/o Late Jairam Singh Thakur, Aged About 42 Years, Occupation Private Work, R/o Bhathagaon, Post Police Station Purani Basti, Tahsil and District Raipur, Chhattisgarh Mob. No. 9826387609

---- Applicant**Versus**

- State Of Chhattisgarh Through The Police Station Devendra Nagar Raipur, Tahsil and District- Raipur, Chhattisgarh

----Non-applicant

For Applicant	: Shri Satish Chandra Verma, Advocate.
For Non-applicant/State	: Shri Neeraj Jain, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

16/11/2017

1. Apprehending arrest in connection with Crime No.72/2017, registered at Police Station - Devendra Nagar Raipur, District - Raipur (C.G.) for offence punishable under Section 420, 34 of the IPC, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by the learned counsel for the applicant, that this is first bail application of the applicant under Section 438 of the Cr.P.C. before this Court. It is submitted that an agreement was entered between complainant Vishnu Bhai Jani and S.D. Shrivastava, the land broker for sale of the land in the year 2008, in which the applicant had signed the agreement on behalf of the seller being the power of attorney holder of the owner. All the amount of consideration was received by S.D. Shrivastava. The agreement of sale could not be performed due to the reason that the owner of the said land expired. The complainant asked for refund of the amount from the land broker S.D. Shrivastava, which was not refunded. It is submitted that this is purely a civil transaction. Complaint was made to

the police and the police has after investigation given report that no offence is committed. Thereafter, the complainant has approached the Court of JMFC by filing the application under Section 156(3) of the Cr.P.C. It was by the orders of the Court that the FIR has been registered after a lapse of almost more than 8 years. It is submitted that the applicant has been falsely implicated. Hence, he may be granted anticipatory bail.

3. Learned counsel for the non-applicant/State opposes the application and the submission made in this respect. It is submitted that the applicant had been a signatory to the agreement for sale. Hence, at this stage, he cannot shirk from his responsibility for the breach of contract which appears to be of criminal in nature, looking to the statement of the witnesses in this case; it is prayed that the application for anticipatory bail may be rejected.

4. I have heard the learned counsel for the parties and perused the case diary.

5. As per the facts of the case, an agreement was entered between complainant Vishnu Bhai Jani and co-accused in this case S.D. Shrivastava for sale of the land in the year 2008. The complainant has paid the advance amount Rs.5 lacs to co-accused S.D. Shrivastava. As the sale-deed of the said land was not executed, a written complainant was made to the S.P. Raipur on 05-08-2015 making allegation against S.D. Shrivastava. No action was taken by the police. Thereafter, the application under Section 156(3) of the Cr.P.C. was filed before the Court of JMFC Raipur and by the orders of the Court, the FIR has been registered, in which investigation is pending.

6. Considered the submissions and contents of the case diary. As per the contents of the FIR and the statement of the complainant, it is clear that he has made all the allegations against the main accused S.D.

Shrivastava, although he has implicated this applicant later on in the application filed before the Court of JMFC.

7. Looking to statement of the witnesses and other relevant documents in the case diary, I am of this view that this is a fit case where the applicant should be benefited with grant of anticipatory bail.

8. Accordingly, the anticipatory bail application (MCRC No.661/2017) is hereby allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the 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.

9. Certified copy as per rules.

Sd/-

(Rajendra Chandra Singh Samant)
Judge