

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 688 of 2017**

Pramod Kumar Upadhyay @ Pappu Upadhyay, S/o. Shri B.P. Upadhyay, aged about 52 years, Former President, Smriti Grih Nirman Sahkari Samiti, Smriti Nagar, Bhilai, Tahsil and District – Durg (C.G.). Director Sangam Dairy, Smriti Nagar, Bhilai, Tahsil and District – Durg (C.G.)

----Applicant**Versus**

1. State Of Chhattisgarh, Through : District Magistrate, Durg, Chhattisgarh
2. Sandeep Agrawal, S/o. Late A.K. Agrawal, aged about 45 years, R/o. Block No.23, Plot No.4, Nehru Nagar (East) Bhilai, Tahsil and District – Durg (C.G.)

---- Respondents

For Applicant	: Mrs. Fouzia Mirza, Advocate
For Respondent No.1/State	: Mr. Anant Bajpai, Panel Lawyer
For Respondent No.2	: Mr. Tarun Dadsena, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****07/12/2017**

1. Apprehending arrest in connection with Complaint Case No.330/2016, pending before the Court of Judicial Magistrate First Class, Durg, District – Durg (C.G.), for offence punishable under Section 420, 467, 468, 471 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant that the applicant had been the President of Smriti Grih Nirman Sahkari

Samiti, Smriti Nagar, Bhilai, District – Durg and it was at that time, the plot in question of the society was sold by the registered deed to the complainant in the year 2003. Thereafter, another sale deed was executed in favour of the co-accused - Ballu Singh Thakur, in which by mistake, the same plot number has been mentioned as the subject matter of the sale deed, this mistake was totally unintentional . The complainant never approached the society for rectification of the mistake so committed and on the other hand, he has directly approached the criminal Court by filing the complaint. As soon as the society has come to know about the mistake committed, a letter has been issued to the complainant to approach the society for rectification of the said mistake. It is submitted that in none of the sale transactions, applicant had been beneficiary in receiving consideration of the said sale. The matter is of civil nature and the complainant has also filed civil suit against the society, hence for this reason, the applicant is entitled for grant of anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submission made in this respect.
4. Counsel for the respondent No.2/complainant submits that the applicant during his tenure as president of said society has deliberately sold the plot in dispute to the co-accused Ballu Singh Thakur and as per the information received, the amount of consideration received in the sale, has not been deposited in the account of the society. Applicant has a criminal history about the commission of offence of similar nature apart from that applicant is influential person being a person of politics, hence on his being

released on anticipatory bail, the fair trial of the case will be affected, hence, it is prayed that application be rejected.

5. I have heard the learned counsel for the parties and perused the case diary and the documents.
6. The brief facts of the case are that the respondent No.2 filed a complaint before the Court of Judicial Magistrate First Class, Durg. The complaint was dismissed by order dated 06.08.2013 and revision was preferred against this order. Revision was allowed by the Sessions Court on the basis of which, cognizance has been taken and complaint has been registered against the applicant by the concerned Court on the basis of the statement given by the witnesses of the complainant.
7. Considered the submissions made and the documents placed on record by the applicant and by the objector side. As it is alleged by the respondent No.2, it appears that the society is presently chaired by Rajeev Choubey, who has also been arrayed as an accused and has been enlarged on anticipatory bail by the Coordinate Bench of this Court. The society has no grievance against the applicant regarding sale transaction made by him in favour of the co-accused Ballu Singh Thakur. It is also noticeable that notice has been issued by the present office bearer of the society to complainant to approach the society for rectification of the mistake committed by the society. Taking into consideration this facts of this case, this Court is inclined to release the applicant on anticipatory bail.
8. Accordingly, the anticipatory bail application is 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 on executing a

personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court. 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram