

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.CR.C. No. 5108 of 2017

Smt. Rameshwari Bandhe, W/o. Pyarelal Bandhe, Aged About 45 Years, R/o. Industrial Ward Dhamtari, District -Dhamtari, Chhattisgarh

---- Applicant

Versus

State of Chhattisgarh, Through : District Magistrate, Durg, Chhattisgarh

---- Respondent

M.CR.C. No. 5688 of 2017

Ramesh Kumar, S/o. Sadhram Deshlahre, Aged About 42 Years, R/o. Birjhapur, Police Station & Tahsil -Dhamdha, District- Durg, Chhattisgarh

---- Applicant

Vs

State Of Chhattisgarh, Through : Station House Officer, Police Station -Dhamdha, District -Durg, Chhattisgarh

---- Respondent

M.CR.C. No. 6013 of 2017

Agardas Gandre, S/o. Kaladas, Aged About 52 Years, R/o. Village- Kandai, Police Station - Nandani Nagar, Tahsil and District -Durg Chhattisgarh

---- Applicant

Vs

State Of Chhattisgarh, Through : Police Station : Dhamdha, District - Durg Chhattisgarh

---- Respondent

M.CR.C. No. 6141 of 2017

1. Smt. Shakun Bai, W/o. Dilip Deshlahare, Aged About 38 Years,
 2. Atma Ram, S/o. Vichit Satnami, Aged About 42 Years,
 3. Smt. Mantara Bai, W/o. Late Dhunha Satnami, Aged About 65 Years,
- All are R/o. Village -Kendai, P.S. -Nandani Nagar, Tahsil -Dhamdha, District -Durg, Chhattisgarh.

---- Applicants

Vs

State Of Chhattisgarh, Through : The Station House Officer, Police Station – Dhamdha, District -Durg Chhattisgarh.

---- Respondent

And

M.CR.C. No. 6068 of 2017

Rajendra Deshlahare, S/o. Sadhu Ram Deshlahare, Aged About 55 Years,
R/o. Village -Kendai, Police Station - Nandani Nagar, Tahsil and District –
Durg, Chhattisgarh.

---- Applicant

Vs

State Of Chhattisgarh, Through : The District Magistrate -Durg, Chhattisgarh.

---- Respondent

For Applicants	: Mr. B.P. Singh, Mr. Jitendra Gupta and Mr. Tarun Dadsena, Advocates
For Respondent/State	: Mr. Neeraj Jain, Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

03/11/2017

1. All the bail applications are heard together and decided by this common order, as they all are arising out of same crime number and the facts and issues involved are similar in nature.
2. These are the first bail applications filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants, who have been arrested in connection with Crime No.115/2017, registered at Police Station – Dhamdha, District – Durg (C.G.) for the offence punishable under Section 419, 420, 467, 468, 471, 34 of the Indian Penal Code.
3. It is submitted by the learned counsel for the applicants that the applicants have been falsely implicated in this case. Counsel for the applicants – Smt. Rameshwari Bandhe and Ramesh Kumar submits that both of them had been joint owners of the land in question, which

was allegedly transferred by joint owners one of them being Jana Bai, who was impersonated by applicant – Smt. Sakun Bai in M.Cr.C. No.6141/2017. On behalf of the applicant – Agardas Gandre, it is submitted that he had been the attesting witness and he was not personally acquainted with any of the parties to the sale deed. On behalf of the applicant- Shakun Bai, it is submitted that the land owner -Jana Bai had appointed Shakun Bai as her power of attorney, which was executed on 10.01.2012, whereas, the sale deed was executed on 14.02.2012 subsequent to that. It was clerical error that it has not been mentioned in the sale deed, that Shakun Bai has in capacity of power of attorney of Jana Bai, executed the sale deed. On behalf of another accused – Rajendra Deshlahare, it is submitted that he had been one of the joint owner of the land. Similarly on behalf of Aatma Ram and Smt. Mantra Bai, it is submitted that they are also joint owners, who were present at the time of execution of sale deed for execution of their part, hence they can not be considered as co-accused in this case, the applicants are in jail since 06.07.2017, 18.07.2017, 29.06.2017 respectively, charge-sheet has been filed and trial is yet to commence, the offence is triable by Judicial Magistrate First Class, hence prayed that the applicants may be enlarged on bail.

4. On the other hand, learned counsel for the State opposes the bail applications and the submissions made in this respect. It is submitted that in execution of sale deed by the joint owners, Shakun Bai has impersonated one of the joint co-owner -Jana Bai and one of co-owner Birjha Bai was deceased, who was impersonated by one co-accused Bhuri Bai. All the applicants in this case had active knowledge of impersonation and cheating in this case, even then they have

participated in execution of sale deed, because of which they are not entitled for grant of bail.

5. I have heard the learned counsel for both the parties and perused the case diary.
6. According to the prosecution case, Jana Bai and others were joint owners of land situated in Village – Kendai. Sale deed dated 14.02.2012 was allegedly executed by all the co-owners. It is stated in the prosecution case that co-owners -Jana Bai was not present at the time of the execution and was impersonated by applicant – Shakun Bai. Similarly co-owner -Birjha Bai was deceased, who was impersonated by another co-accused – Bhuri Bai. On a complaint made, case has been investigated and charge-sheet has been filed against the accused persons.
7. Considered on the submissions made and the contents of the case diary. FIR has been lodged after lapse of five years from the date of execution of sale deed. None of the parties of the sale deed had any grievance at any point of time, neither any person has made any claim on behalf of the Jana Bai and Birjha Bai. Taking into consideration this fact that the applicants are in jail for quite sometime, the case is triable by Judicial Magistrate First Class, conclusion of the trial is likely to take some time, hence for these reasons, no purpose would be served, if the, applicants are kept in custody for the whole period of trial, this Court is of the opinion that present is a fit case, in which, the applicants should be enlarged on regular bail.
8. Accordingly, the bail applications filed under Section 439 of the Cr.P.C. are allowed.

9. It is directed that applicants shall be released on bail on their furnishing a personal bond in the sum of Rs.25,000/- with one surety each in the like sum to the satisfaction of the concerned trial Court, for their appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram