

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1060 of 2016**

Sanjay Mittal S/o Satyanarayan Mittal, Aged About 40 Years R/o
Kharsia Chauk, Ambikapur, Police Station & P.O. Ambikapur,
Civil & Revenue District Surguja, Chhattisgarh.

---- Applicant**Versus**

1. State Of Chhattisgarh Through District Megistrate, Surajpur,
Police Station & P.O. Surajpur, District Surajpur, Chhattisgarh.
 2. Bakuli D/o Devendranath Aged About 50 Years,
 3. Mu. Asha Wd/o Devendranath, Aged About 65 Years,
- No.2 & 3 are R/o Village Sanjaynagar, Police Station & P.O.
Jainagar, District Surajpur, Chhattisgarh.

---- Respondents

For applicant – Ms. Priyanka Mehta, Advocate.
For Respondent/State – Shri Neeraj Jain, G.A.
For respondents No.2 & 3 - Shri A.K. Prasad, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order****16/02/2017**

1. This application under Section 438 of Cr.P.C. has been filed by the applicant apprehending his arrest in connection with Complaint Case No. 960/2016 pending before Judicial Magistrate First Class, Surajpur, District Surajpur (C.G.) for offence punishable under Section 420 of Indian Penal Code.
2. As per the case of the complainant, complaint was filed by respondents No.2 and 3 that a sale deed of 1 hectare got executed by two separate sale deeds on 21/12/2011. However, actually sale was meant for only 1 acre and for 1 ½ acres no sale consideration was paid and no consent was given while permission was obtained for sale. Thereby, fraud has been committed.

3. Learned counsel for the applicant submits that the complainant had filed civil suit in respect of the entire sale wherein entire sale deed are in question which also takes within its sweep area of the land and 1 acre has not been challenged. Subsequently, sale deed has been put to challenge. It is further submitted that the rehabilitation department has also granted permission after enquiry. Thereafter, sale deed was executed on 20/11/2011. Consequently, if some finding are given about the area in sale deed it will affect the civil suit and the incident is of 2011 and nature of the case is civil in nature, therefore the applicant may be granted benefit of anticipatory bail.

4. Learned State counsel and counsel for the complainant opposes the prayer for grant of anticipatory bail and would submit that trial court after enquiry prima facie found that offence is committed.

5. Perused the documents filed along with the petition as also different statement. As appears in respect of the same land civil suit is pending and complaint is filed for same. Sale deed appears to be of 2011 and taking into such fact that civil suit is pending and also considering the nature of allegation, I am inclined to extend benefit of anticipatory bail to the applicant.

6. Accordingly, the anticipatory bail application is allowed and 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 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) 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.

Sd/-

(Goutam Bhaduri)

JUDGE