

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 736 of 2017**

Shahid Khan S/o Akhtar Khan, aged about 27 years R/o Mowa, Police Station Mowa, District Raipur, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh through the Police Station Civil Lines, District Raipur, Chhattisgarh.

---- Respondent

For Applicant	:	Shri Mateen Siddiqui, Advocate
For Respondent /State	:	Shri Ashish Shukla, Govt. Advocate
For Objectors	:	Shri Rajeev Shrivastava and Shri Pragalbh Sharma

Hon'ble Shri Justice P. Sam Koshy**Order On Board****07/03/2017**

This is the first bail application filed u/s 439 of Cr.P.C. for grant of bail to the applicant who has been arrested in connection with Crime No. 286/2016 registered at P.S. Civil Lines, Raipur (CG) for the offence punishable under Sections 406, 418, 419, 420, 467, 468, 471/120B of IPC.

The allegation against the present applicant is that he while working as an accountant in the three firms belonging to a joint family Ugam Devi Pagariya, Gajaraj Pagariya & Durga Devi Pagaria and the main accused Sushil Pagariya, has fraudulently in collusion with the main accused Sushil Pagariya got an exchange deed executed. By way of the said exchange deed, the applicant who was projected as an authorized signatory in the said exchange deed got the property belonging to the aforementioned jointly family situated at the heart of the city i.e. commercial land at Pandri exchanged with the agricultural land of the co-accused Sushil Pagariya situated at Mandir Hasaud. The said exchange of property was without the knowledge, consent and permission of the other partners of the firm as also without knowledge of the members of the joint family.

Counsel for the applicant submits that the only allegation against the present applicant is that knowingly that the co-accused Sushil Pagariya does not have the entire exclusive right over the said property situated at Pandri accepted himself as an authorized signatory which too was a document which was not properly executed nor was there a resolution issued in this regard appointing him as an authorized signatory has got the property transferred. Counsel for the applicant

submits that a perusal of the FIR and the entire documents enclosed with the case diary would reveal that the present applicant is only a tool which has been used by the main accused Sushil Pagariya in the alleged fraudulent transaction. He submits that the applicant has been used as a means for execution of those fake and fraudulent transactions. The applicant is not directly the beneficiary of the alleged transaction except the fact that he has been able to fraudulently get appointed as an executive director in one of the Companies. He further submits that the appointment of the present applicant as an executive director also was by the co-accused Sushil and the present applicant as such does not have much role in the entire alleged transaction which is alleged to have been occurred except by lending his name to the main accused.

These contentions of the counsel for the applicant are not disputed by the State counsel as well as by the counsel appearing for the objectors but they strongly oppose the grant of bail on the ground that the present applicant is not an innocent person. The applicant was fully aware of the illegal and fraudulent transactions and it was with his connivance and active participation that the alleged fraudulent transaction has been executed and therefore he should not be granted bail.

Considering the total allegations and submissions put forth by the counsel appearing for all the disputing parties, prima facie, it appears that the present applicant has been used by the co-accused Shushil Pagariya and it was only at the instance, instructions and guidance of the said co-accused Sushil that the entire fraudulent transactions have been executed. The present applicant prima facie appears to have been only a tool in the hands of the main accused Sushil for the execution of the entire transactions.

In view of the same, considering the role of the present applicant in the alleged fraudulent transaction and the fact that the present applicant is in jail for almost eight months, this Court is of the opinion that it is a fit case where the present applicant can be released on bail.

Accordingly, the application for grant of bail is allowed. It is directed that if the applicant furnishes a personal bond for a sum of Rs.25,000/- with two local sureties each of the like amount to the satisfaction of the concerned trial Court, he shall be released on bail. The applicant is directed to appear before the trial Court on each and every date given to him by the said Court till disposal of the trial. He shall also not leave the territories of District Raipur without due intimation to the concerned Police Station where the FIR against the applicant is registered.

Sd/-
(P Sam Koshy)
Judge