

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 658 of 2018

- Tarak Ranjan Manjhi S/o Sushil Ranjan Manjhi Aged About 37 Years
R/o Amlidih Raipur, P.S. New Rajendra Nagar, Raipur Chhattisgarh,
District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Telibandha Raipur
Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Kishore Bhaduri with Mr. Pawan Kesharwani, Advocate.
For Respondent/State	:	Mr. Anil S. Pandey, Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

30/04/2018

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicant who has been arrested in connection with Crime No.128/2015, registered at Police Station Telibandha, District – Raipur (C.G.) for the offence punishable under Sections 420, 468, 467, 471, 34 of Indian Penal Code.
2. Learned counsel for the applicant submits that the applicant has falsely been implicated in this case. Applicant is in jail since 29.6.2016 and the trial against him is still pending. No case is made out against him. This applicant has acquired title of the land in question on the basis of purchase made from complainant Neetu Jain vide sale-deed dated

26.9.2012, and he has passed on the same by way of registered sale-deed on 5.5.2014 to one Bhushan Narayan Shinde. Applicant has no knowledge about filing of suit by mother-in-law of the complainant, and about passing of an order of injunction on 16.10.2012 and that in the said case complainant has made only an oral statement that as the land became disputed pursuant to the execution of sale-deed because of which she and this applicant entered into a compromise for reverse sale of the land in question. Hence, it is prayed that he may be released on regular bail.

3. Learned State counsel opposes the bail application and submissions made in this respect. It is submitted that the act of this applicant had been *malafide* since inception. This applicant had the knowledge that subsequent to execution of sale-deed dated 26.9.2012 the land became disputed and he was a party to an agreement executed on 3.12.2012 for the return of sale-deed. Hence, sale of land subsequent to this development by applicant to Bhushan Narayan Shinde is an act of deceit and fraud. It is also submitted that other cases of similar nature have been registered against this applicant and this shows that he is a habitual offender, hence, no case is made out for grant of bail to the applicant.
4. In reply, counsel for applicant submits that only by execution of an agreement existence of sale-deed dated 26.9.2012 cannot be said to have been ceased, hence, on the date of execution of sale-deed dated 5.5.2014, this applicant have right to pass on the title. Regarding other statement of criminal antecedents it is submitted by counsel for applicant that out of 17 cases, this applicant has been acquitted in 16 cases by the trial Court, whereas he has been convicted only in one

case. Hence, only on that basis it cannot be said that he is a habitual offender. It is again prayed that he may be released on regular bail.

5. Heard both the parties and perused the case diary.
6. The case against the applicant is briefly discussed herein above that subsequent to execution of sale-deed dated 26.9.2012 in favor of this applicant by complainant Neetu Jain, her mother-in-law filed a civil suit challenging the same and in that case the trial Court had passed an order of injunction on 16.10.2012. It is also not in dispute that an agreement for return sale was executed between applicant and complainant on 3.12.2012. Subsequent to these developments, a sale-deed dated 5.5.2014 was executed in favor of Bhushan Narayan Shinde by this applicant.
7. Looking to the facts of this case, the bonafides on the part of the applicant is yet to be established in the trial. Though earlier sale-deed was not canceled but that itself does not give any right to the applicant, on account of presence of dispute before the civil Court. Statement of Abha Shinde recorded under Section 161 of CrPC discloses that this applicant did not inform about the dispute relating to the property in question, hence, on merits, I am of this view that this applicant is not entitled for grant of bail.
8. Reliance has been placed by counsel for applicant on the judgment of Supreme Court in Dataram Singh Vs. State of U.P. & another reported in (2018) 3 SCC 22. Any judgment of superior Court cannot be said to have any binding effect as a precedent because every case has to be decided on its own merit. Considering the facts involved in the present case, as discussed above, and further considering the fact that this applicant has been prosecuted in various other criminal cases and

even once he has been convicted by the trial Court, as informed by counsel for applicant, I am not inclined to grant bail to this applicant.

9. Accordingly, the bail application filed under Section 439 of Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nisha