

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 37 of 2018**

S.D. Shrivastava, Son Of Late Prabhudayal Shrivastava, Aged About 67 Years, R/o. Devendra Nagar, Police Station- Devendra Nagar, Raipur, Chhattisgarh.

----Applicant

Versus

State Of Chhattisgarh, Through : Police Station- Devendra Nagar, District Raipur, Chhattisgarh.

---- Respondent

For Applicant	: Mr. Manoj Paranjpe, Advocate
For Respondent/State	: Mrs. Smita Ghai, Panel Lawyer

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**05/04/2018**

1. Apprehending arrest in connection with Crime No.72/2017, registered at Police Station – Devendra Nagar, Raipur, District – Raipur for offence punishable under Section 420, 34 of 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 has been falsely implicated in this case. The role played by this applicant was this that he was broker and through his services, one agreement was executed between the complainant of this case with the power of attorney holder of the owner of the land in question in the year 2008. Subsequent to that, all the payment that was received have been handed over to the real owner of the

said land. Registered sale deed was not executed for the reasons that the complainant himself has not approached the owner of the said land. Recovery notice dated 26.10.2013 was served upon this applicant, in which complainant has admitted that due to delay in payment of consideration, sale deed could not be executed. Reply was given by this applicant, in which it was stated by this applicant that entire documents of the subject matter of the agreement have been handed over to the complainant and all the amount that were received by him on behalf of the real owner have been passed on to the real owner. Nothing was done by the complainant for almost more than two years and all of a sudden, an application under Section 156 (3) of Cr.P.C. was filed, before the Court of Judicial Magistrate First Class on 24.10.2016 and on the basis of the order passed by the concerned Court, FIR has been lodged on 13.07.2017. It is further submitted that no offence of cheating is made out according to the material present in the case diary. Therefore, it is prayed that, the applicant may be benefited with grant of anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of anticipatory bail and the submission made in this respect. It is submitted according to the FIR lodged against this applicant, offence of cheating is clearly made out, hence, the applicant is not entitled for grant of anticipatory bail.
4. I have heard the learned counsel for the parties and perused the case diary and the documents.
5. The case against the applicant is briefly stated herein above.

6. Considered the submissions made and the contents of the case diary. As it appears that this applicant had provided his services as broker and he was also a witness to the agreement. There is no dispute that all the amount that he has received have been passed to the real owner and further the complainant has initiated the complaint after passing of more than 7 years from the date of agreement, which needs to be explained. Hence for this reason, this Court is of the opinion that it is a fit case, where the applicant should be extend the benefit of Section 438 of Cr.P.C.
7. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
8. 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 Investigating Officer. 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