

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 98 of 2018

Vinay Nampalliwar S/o Late Anant Nampalliwar, aged about 55 years, R/o 2-Vinayak Garden, Vijay Nagar Chowk, Avanti Vihar, Raipur (C.G.).

---- Applicant

Versus

State of Chhattisgarh Through- Police Station- Telibandha, Raipur (C.G.).

---- Respondent

For Applicant	:	Mr. Maneesh Sharma, Advocate
For Respondent	:	Mr. U.K.S. Chandel, PL

Hon'ble Shri Justice Arvind Singh Chandel

Judgment on Board

16/05/2018

1. Heard.
2. The applicant has filed this application for grant of anticipatory bail as he is apprehending his arrest in connection with Crime No. 09/2018 registered at police station –Telibandha, Raipur (C.G.) for the offence punishable under Sections 420, 467 & 468 of IPC.
3. As per prosecution story the applicant is the Chairman of Mahamaya Devi Co-operative Housing Society, Raipur. In the year 2011, he sold a plot admeasuring 2025 Sq. ft. to the complainant Sarita Chopra and the possession was handed over to her. Upon coming to know that someone else has claimed to be in possession of the said property, on enquiry she came to know that the accused/applicant by creating a forged affidavit to the effect that complainant had surrender her plot back to the society in terms of affidavit dated 11/05/2016. On the

basis of said forged affidavit, applicant deeming himself to be the owner of the property in question sold the said plot to some other person in terms of registered sale deed dated 01/07/2016. The matter was reported by the said complainant Saita Chopra and crime has been registered.

4. Learned counsel appearing on behalf of the applicant submits that though the said plot was purchased by the complainant from the society, but one of the pre-condition of the sale-deed was that the purchaser would raise construction within three years from the date of registration, failing which, the sale-deed shall automatically stand terminated and the consideration amount would be returned to the purchaser along with interest. He further submits that it was complainant herself who surrendered the said land to the society and also obtained the amount of consideration along with interest through her power of attorney holder Kachar Das Burad on 11/07/2016. Therefore, no offence is made out against the present applicant. Just to harass the applicant, false and fabricated FIR has been lodged by the complainant. He prays for grant of anticipatory bail.
5. Learned counsel appearing on behalf of the State opposes the said application, however, he admitted that there is no hand writing expert opinion regarding signature of the complainant on the alleged affidavit dated 11/05/2016. He further submits that the consideration amount of Rs. 12 lakh has been transferred to the power of Attorney holder namely Kachar Das Burad on 11/07/2016.
6. Considering the facts and circumstances of the case, particularly considering the fact that there is no hand writing expert opinion whether the signature of the complainant is on the alleged affidavit

dated 11/05/2016 or not and Rs. 12 lakh has been transferred to the power of Attorney holder namely Kachar Das Burad on 11/07/2016, without further commenting on merit of the case, I am inclined to extend the benefit of anticipatory bail to the applicant.

7. Accordingly, MCRCA No. 98/2018 is allowed.
8. It is directed that in the event of arrest, the applicant shall be released on bail on furnishing a bond in the sum of Rs.10,000/- with one surety for the like sum to the satisfaction of the officer arresting him and he shall abide by all the following terms and conditions:
 - i. That, the accused/applicant shall make himself available for interrogation before the concerned Investigating Officer as and when required;
 - ii. The accused/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. The accused/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.
9. Certified copy, as per rules.

Sd/-

Judge
Arvind Singh Chandel