

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 153 of 2018

- Prabhat Chopra S/o Keval Chand Chopra, Aged About 58 Years, R/o Majhapara Ward, P.S. Kanker, Tahsil Kanker, District Uttar Bastar Kanker Chhattisgarh, District : Kanker, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Kanker, District Uttar Bastar Kanker Chhattisgarh, District : Kanker, Chhattisgarh

---- Non-applicant

MCRCA No. 169 of 2018

- Smt. Farida Bano W/o Haroon Rashid, Aged About 62 Years, R/o. Village- Tikarapara, P.S. And Telsil- Kanker, District-Uttar Bastar Kanker (C.G.), District : Kanker, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer Kanker, District- Uttar Bastar (Kanker) (C.G.), District : Kanker, Chhattisgarh

---- Non-applicant

MCRCA No. 186 of 2018

- Haroon Rashid S/o Late Abdul Razzak, Aged About 65 Years, R/o Village- Tikarapara, Police Station And Tehsil- Kanker, District- Uttar Bastar Kanker Chhattisgarh., District : Kanker, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer Kanker, District- Uttar Bastar (Kanker) Chhattisgarh., District : Kanker, Chhattisgarh

---- Non-applicant

For Applicant – Shri Rajesh Ranjan Sinha, Advocate (in MCRCA No.153/2018),
Shri Surfaraj Khan, Advocate (in MCRCA No.169/2018 and
MCRCA No.186/2018).

For Non-applicant/State – Shri Anupam Dubey, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

11-09-2018

1. As these three MCRCA arise out of the same crime number, i.e. Crime No.41/2018, registered at Police Station Kanker, Distt. Uttar Bastar (Kanker), Chhattisgarh for the offence under Section 420, 34 of the IPC, they are being decided by this common order.

2. These applications have been filed by the applicants for grant of anticipatory bail as they are apprehending their arrest in connection with aforesaid crime number and offence.

3. It is submitted by learned counsel for the applicants that the applicants in all these three applications have been falsely implicated in this case. The fact is this, that an agreement was executed between the applicants and the complainant Rajkumar Chopda dated 15-05-2006 which was time bound and it expired on 14-01-2011 and the money received as advance was returned to the complainant on 27-10-2012. But, the complainant filed a civil suit against applicant Haroon Rashid (applicant in MCRCA No.186/2018) and others praying for relief regarding the same subject matter which had been the subject matter of the agreement for sale and on the same facts this false FIR has been lodged by him against the applicants making false allegations of fraud and cheating in this case.

Copy of the plaint in the civil suit filed by the complainant is attached in MCRCA No.169/2018 for reference of this Court which shows that these applicants have been arrayed as defendants in that case and the copy of the issue framed also shows that the subject matter is same in that civil suit and as well as in this criminal case. Hence, it is a case in which a civil dispute has been converted into a criminal case and that too after rejection of the application for grant of temporary injunction by the concerned civil Court. Hence, it is prayed that all these applicants may be benefited with grant of anticipatory bail.

4. Learned counsel for non-applicant/State opposes the applications and submits that according to the statement of complainant Rajkumar Chopda under Section 161 of the Cr.P.C. it is a clear case of cheating, hence, no case is made out for grant of anticipatory bail.

5. Learned counsel for the objector after adopting the argument advanced by the State counsel submits that along with civil liability criminal liability also

coexists. There is evidence on record to show that the applicants had conspired to cheat the complainant by disposing off the property of the partnership firm in which these applicants and the complainant were partners. It is a case where custodial interrogation of the applicants is required. Hence, it is prayed that the applications may be rejected.

6. Heard learned counsel for the parties and perused the case diary.

7. A written complaint was filed by the complainant in P.S. Kanker that an agreement to sale was executed between the vendors Haroon Rashid and Farida Bano (applicant in MCRCA No.169/2018) with the complainant along with Prabhat Chopra (applicant in MCRCA No.153/2018) and others for purchase of land at a price of Rs. 17 lakhs for partnership firm Maa Danteshwari Builders and Colonizers, on 29-08-2006. The land subject to purchase has been sold out in pieces by Haroon Rashid and Farida Bano through co-accused Prabhat Chopra and the percentage of the complainant was not given to him. Hence, the FIR has been lodged in this case.

8. On perusal of the material present in the case diary and also the documents that have been produced along with the applications filed by respective applicants, it appears that there is glimpse of civil nature in this case. Hence, for these reasons, I am of this view that these applicants are entitled for grant of anticipatory bail.

9. Consequently, all these three anticipatory bail applications are allowed. It is directed that in the event of arrest of these applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them 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. These applicants shall also abide by the following conditions :

- (i) that they shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that they 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 they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

10. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge