

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No. 286 of 2018**

Dilip Kumar Nihichlani S/o Late Danamal Nihichlani Aged About 50 Years R/o Naresh Cloth Store, Village And Post Office Silyari, Police Station Dharsiwa, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

**---- Applicant**

**Versus**

1. Sanjay Kumar Nihichlani S/o Shri Kanhaiyalal Nihichlani Aged About 40 Years R/o Village Tilda, Camp Tahsil Tilda, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. State Of Chhattisgarh Through The Station House Officer Police Station Dharsiwa, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

**---- Respondents**

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|-----------------|---|--------------------------------------------------------|
| For Applicant   | : | Shri Dhirendra Mishra and Shri D.R. Agrawal, Advocates |
| For Complainant | : | Shri Abhishek Pandey, Advocate                         |
| For State       | : | Shri Manish Nigam, Panel Lawyer                        |

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**S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava**

**Order On Board**

**27/04/2018**

Heard.

1. This application under Section 438 of Cr.P.C. has been preferred by the applicant, apprehending his arrest in connection with Complaint Case No.1019/2014 filed before the Judicial Magistrate First Class, Raipur, wherein the Magistrate has taken cognizance of commission offence under Sections 120-B, 467 and 471 IPC against the applicant and one more accused who is alleged to have died, on the allegation that the present applicant purchased a piece of land from Khemchand Nihichlani which land actually belong to grandfather of the complainant Sanjay Nihichlani. It is alleged that a forged patta was prepared on 8.6.1994 and on that basis, the property was sold by

Khemchand in favour of the present applicant.

2. Learned counsel for the applicant would argue that in the main complaint case, the Revenue Officer who is alleged to have fabricated and Khemchand Nihichlani both have been discharged, therefore, as against the present applicant, no case is made out. He would submit that the applicant was not knowing about any pendency of criminal case against him. He, later on, came to know about the criminal case pending since long, wherein the summons were never issued by the Magistrate and in the meantime, another accused Ashok Kumar has also died. Therefore, in these circumstances, applicant may be protected by giving him benefit of anticipatory bail.
3. Learned counsel for complainant opposes the prayer and submits that the land in dispute belong to his grandfather and the forged patta was prepared by the Revenue Officer in favour of Khemchand and he sold this land to present applicant. According to him, this was a conspiracy hatched by all of them.
4. It is found that complaint was filed way back in the year 2004. The allegation are that under a conspiracy, a patta was forged on 8.6.1994 and on the basis of that patta, Khemchand sold the land in dispute to the present applicant. It is also found that other two accused, one the Revenue Officer and the Khemchand Nihichlani both have been discharged of the charges. Complaint is based on a conspiracy and the persons who are alleged to have conspired along with the applicant, have been discharged. The applicant is a purchaser, therefore, in these circumstances, it would be appropriate to allow the application.
5. The application is accordingly allowed. It is directed that in the event of arrest of the applicant in connection with the Complaint Case No.1019/2014, he shall be released on bail by the arresting officer on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the arresting officer.
6. This order is subject to the condition that the applicant shall appear before the concerned Magistrate on 15.5.2018 along with copy of this order. If the

applicant does not appear before the Magistrate on 15.5.2018, it will be treated as contempt of Court and the Magistrate shall proceed to issue arrest warrant.

Certified copy as per rules.

Sd/-  
**(Manindra Mohan Shrivastava)**  
Judge

Praveen