

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 2511 of 2018**

Janisar Akhtar, S/o. Late Sheikh Rahim, Aged About 50 Years, R/o- Shanti Nagar, In Front Of 07 Days School, Bhilai Nagar, Tahsil and District- Durg, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh, Through- District Magistrate, Durg, District- Durg, Chhattisgarh.

---- Respondent

For Applicant : Mrs. Renu Kochar, Advocate

For State/respondent : Mr. Anupam Dubey, Dy. Govt. Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**17/05/2018**

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.1107/2017, registered at Police Station – Supela, Bhilai, District – Durg (C.G.), for the offence punishable under Section 420, 406 of the Indian Penal Code.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this. Applicant is in jail since 18.02.2018. Applicant is a land broker. As the complainant approached him for sale of his property, agreeing to provide his services, he had received a power of attorney for sale of the land of the complainant.

Subsequently, the land was sold to Munna Singh and some part of consideration has been paid to the complainant and remaining is yet to be paid for which this applicant has the liability to pay the same, hence it is case of civil nature, therefore, it is prayed that, the applicant may be released on bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submission made in this respect. It is submitted that this applicant got executed three agreements for sale of land from the complainant mentioning the amount of Rs.53.00 lakhs to be returned to the complainant as consideration for that sale of the land and only Rs.6.00 lakhs has been paid to the complainant, which shows the intention of this applicant to cheat the complaint. No case is made out for grant of bail, therefore, it is prayed that the applicant may not be released on bail.
4. I have heard the learned counsel for both the parties and perused the case diary.
5. As per the prosecution case, two agreements showing the price of land as Rs.10.00 lakhs in the first agreement and Rs.24.00 lakhs in the second agreement were executed by the complainant in favour of the power of attorney holder i.e. the applicant. Subsequently, another agreement dated 29.06.2016 mentioning the price of Rs.20.00 Lakhs has been executed by the complainant in favour of this applicant, in total for consideration of Rs.53.00 lakhs. Subsequently, the land was sold to Munna Singh showing consideration price of Rs.31,32,000/-. From the material present on record, it appears that only Rs.6.00 lakhs was paid to the complainant and the remaining amount of consideration was not paid, hence, the complaint was filed.

6. Considered on the submissions made and the contents of the case diary. Being the power of attorney holder, the applicant is duty bound to pass on the complete consideration received in sale to the complainant. Looking to this fact that he has no criminal antecedents and there is no illegality with the agreement executed and the power of attorney registered in favour of this applicant, hence for this reasons, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
7. Accordingly, the bail application filed under Section 439 of the Cr.P.C. is allowed.
8. It is directed that applicant shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge