

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C No. 2443 of 2018

- Avinash Mishra S/o R.S. Mishra Aged About 49 Years R/o- House No. 17, Nav Jivan Society, P.S. Tikrapara, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh The Station House Officer, Police Station Civil Line, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Sumesh Bajaj, Advocate.
For the Respondent/State	:	Shri Anant Bajpai, PL.
For the Objector	:	Shri Basant Dewangan, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

09.05.2018

1. This is the first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant, who has been arrested in connection with Crime No.80/2017 registered at Police Station – Civil Line, District – Raipur, (C.G), for the offences under Sections 420 & 201 of the Indian Penal Code.
2. Learned counsel for the applicant submits that the applicant has been falsely implicated in this case. Earlier this applicant had filed an application for grant of anticipatory bail, which was rejected by this Court vide order dated 25.01.2018. Thereafter, applicant has been approached the Supreme Court but could not get any relief

from there also and therefore he has surrendered before the trial Court on 19.02.2018.

3. It is submitted that in this case a power of attorney has been executed by Shamsher Singh & others in favour of the applicant herein, so that the applicant may enter into transaction for sale and purchase of land on their behalf. After execution of sale deed in favour of the applicant in respect of the land in question, he has paid the entire sale consideration. Thus, all the acts have been done by this applicant under a valid authority and the allegation that the power of attorney has been forged is totally false. He further submits that in fact, the complainant was the local caretaker of the properties of said Shamsher Singh & others and earlier also he had filed a complaint against the applicant, which was duly inquired by the Police and a report under Section 155 of Cr.P.C. dated 29.12.2016 was submitted, that any cognizable offence was not been found to have been committed. Hence, under these circumstance, when the applicant has paid the entire sale consideration, the police did not find commission of any cognizable offence in the inquiry conducted on the complaint of said Guruvinder Singh and considering that the period of detention of the applicant, it is prayed that he may be released on regular bail.

4. Learned counsel for the State opposes the bail application and submits that it is a case of huge fraud committed by this applicant. The power of attorney dated 22.03.1996, on the basis of which this applicant claims his authority, is a forged document prepared by the applicant himself. Further, though after the death of the executant of power of attorney i.e. Shamsher Singh, the authority stands revoked automatically, but the applicant even after the death of said Shamsher Singh used the said power of attorney. This apart, the applicant with the help of forged power of attorney has also

usurped the authority of other persons to sell their land in ownership. The applicant has not only cheated the registered owners of the lands but also the purchasers who have purchased the lands from the applicant. In these circumstances, the bail application of the applicant is liable to be rejected.

5. Learned counsel for the objector after adopting the arguments advanced by the State counsel, submits that the power of attorney dated 22.03.1996 on record has been executed in the name of this applicant and also in the name of Yogesh Mishra by the deceased, but it is unbelievable that one will execute two separate power of attorneys in respect of one land. Further, this applicant has successfully manipulated the available evidence as the Notary through whom the power of attorney was got executed has stated that the register in which the entry regarding this power of attorney was made has been destroyed by termites and this shows that this applicant can go to any extent to influence the witnesses to fabricate or destroy the available evidence. Hence, for these reasons he may not be granted bail.
6. Heard counsel for both the parties and perused the case diary.
7. The case of the prosecution is this that Late Shamsheer Singh and 17 others had made purchase of land admeasuring 2.250 hectare in Village-Devpuri. After the death of Shamsheer Singh in the year 2006, his successors and co-owners executed the power of attorney in favour of complainant -Guruvinder Singh Sahani. On an enquiry being made by the complainant in respect of the land in question in Village- Devpuri, he came to know that the said land was sold out by Durgesh Singh to Hemant Kumar, Avinash Mishra and Yogesh Mishra in the year 1996 and that Avinash Mishra had, on the basis of forged power of attorney shown to be given by Shamsheer Singh and others has executed the sale deed in respect

of various land in the name of different persons. The alleged the power of attorney executed in favour of Avinash Mishra, Yogesh Mishra, appears to be doubtful and interpolated and on the basis of this power of attorney this applicant himself purchased the land in question, in that sale deed he himself is seller as well as purchaser, which is unbelievable. FIR was registered and after completion of investigation the charge-sheet has been filed.

8. Considered on the entire material present in the case diary although there is prima facie case against this applicant but considering the settled principles for grant of bail that only for the purpose of ensuring appearance of a person before the trial Court and other consideration whether, this applicant is in a position to influence the witnesses in the trial the bail application shall be decided.
9. The investigation has been completed. No apprehension has been raised by respondent or the objector that this applicant is capable of influencing witnesses or causing miscarriage of the trial. The applicant is in detention since quite some time, therefore, after filing of charge-sheet no purpose would be served, if the, applicant is kept in detention till the completion of the trial, hence, this Court is of the opinion that this is a fit case, where the applicant should be granted bail.
10. Accordingly, the bail application filed under Section 439 of Cr.P.C. is allowed. It is directed that the applicant shall be released on bail on his furnishing a personal bond for a sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.

Sd /-

(Rajendra Chandra Singh Samant)
Judge