

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 737 of 2018**

Saumyadeep Sharma @ Abhinav S/o Shri Bhupendra Kumar Sharma Aged About 32 Years R/o Nirala Nagar, Purana Bus Stand, P. S. Tarbahar Tahsil And District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station Sarkanda District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri C.K. Kesharwani, Advocate.
For the Respondent/State	:	Shri Anupam Dubey, Dy. G.A.
For the Objector	:	Shri Goutam Khetrapal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****09.08.2018**

1. Heard on application under Section 438 of the Code of Criminal Procedure, 1973.
2. This is the first bail application filed under Section 438 of the Code of Criminal Procedure, 1973 for grant of anticipatory bail to the applicant who is apprehending arrest in connection with Crime No. 362 of 2018, registered at Police Station – Sarkanda, Bilaspur, District – Bilaspur, Chhattisgarh for the offence punishable under Section 420 of the Indian Penal Code.
3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case. The fact is that mother of complainant – Himau Devi had in fact given power of attorney in favour of the applicant in which, father of the applicant was one of the witness. Regarding the same,

one ikrarnama was also executed by Himau Devi on the same day. On the basis of that power of attorney, the applicant in capacity of attorney has transferred the property belonging to Himau Devi to Ashutosh Kesharwani which is totally a legal transaction, hence, no case is made out against the applicant regarding commission of offence. Hence, it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the applicant was friend of the son of Himau Devi, who gave inducement to her, that for the purposes of proceeding of diversion he needs authorization from Himau Devi and on that pretext he fraudulently obtained the power of attorney for sale of property, which he has misused and has misappropriated the consideration amount received by him. Hence, no case is made out for grant of anticipatory bail to the applicant.

5. Learned counsel for the objector submits that Himau Devi was present in the office of Registrar on 4.8.2015, when the alleged power of attorney is said to be executed and the sale deed was also executed on the same day which itself shows that the land owner who was present in Registrar's office could have well executed the registered sale deed on the same day. It is stated by the witnesses that the signature of husband of Himau Devi was obtained by fraud on the power of attorney as witness and apart from that, during investigation, the offences under Sections 467 and 468 of the IPC have also been added for which the applicant has made no prayer for grant of bail. Hence, no case is made out for grant of anticipatory bail to the applicant.

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

7. Complainant – Awadesh Kumar has filed a complaint on 25.5.2018 in which it is alleged that on account of family relation this applicant fraudulently obtained a power of attorney for sale of property belonging to Himau Devi by giving inducement that it is a document for the purposes of diversion of the land in question. On the basis of that power of attorney, the land was sold out. On 7.5.2018, when the complainant saw the construction activity on the said land he made an enquiry and came to know that the land was sold to Ashutosh Kesharwani on 4.8.2015.

8. Considered the entire material present in the case-diary. This fact needs explanation that in what manner the date of execution of power of attorney and date of execution of sale deed is same i.e. 4.8.2015. Hence, at this stage, it cannot be said that the allegation made by the complainant's side is without substance and baseless. There is statement of Himau Devi and her husband Sakal Dev that they were induced, deceived and their signatures were obtained fraudulently. Hence, I am of the opinion that the present is not a fit case where the applicant is entitled to be released on anticipatory bail.

9. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge