

HIGH COURT OF CHHATTISGARH, BILASPUR

Order reserved on: 10/09/2018

Order delivered on: 19/09/2018

MCRCA No. 835 of 2018

- Goverdhan Rao Ingole S/o Late Shri Shankar Rao Ingole Aged About 63 Years Occupation- Retired Revenue Inspector, R/o Imlibhata, Mahasamund, Police Station, Tahsil And District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- The Station House Officer Police Station Mahasamund, Police Station, District- Mahasamund, Chhattisgarh., District : Mahasamund, Chhattisgarh
- Smt. Pushpa Devi Awasthi W/o Late Shri Prakash Chand Awasthi Aged About 56 Years R/o Appu Chowk, Nayapara, Near Electricity Office Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents

For Applicant :Mr. Gautam Khetrapal, Advocate.
For Respondent No.1/State :Mr. Anupam Dubey, Dy. Govt. Advocate.
For Respondent No.2/Complainant:Mr. Anant Bajpai, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV Order

19/09/2018

1. This is the second bail application filed by the applicant under Section 438 of the Code of Criminal Procedure, 1973. His first application was rejected on merits vide order dated 31.1.2018 by this Court.

2. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No. 189/2017 registered at Police Station- Mahasamund, District – Mahasamund (C.G.), for the offence punishable under Sections 120(B), 420, 466, 468, 471 of the Indian Penal Code (for short 'IPC').
3. Learned counsel for the applicant submits, that applicant is innocent and has been falsely implicated in the crime in question. It is submitted that in the earlier bail application, the case of applicant was not presented properly. From perusal of statement of the complainant it is clear that no case is made out against the applicant. The only allegation against this applicant is that he being the Revenue Inspector had issued a document (Bikri Nakal) in the name of Chhabiram Chandrakar, who was recorded owner of land bearing Khasra No.2017/5/1, area 42,000 sq. ft. and out of the said land, land of area 6000 sq. feet only has been transferred. The dispute that has been raised by complainant is with respect to different land bearing Khasra No. 2017/1/24 and even the boundaries of that land are different. There is no such material present in the record of complaint case to show, that the document that was issued by this applicant relates to the land that was purchased by the complainant. Hence, under these circumstances, it is prayed that he may be released on bail.
4. It is submitted by counsel for the State that as the earlier application for grant of anticipatory bail has been rejected on merits, therefore, repeat application for grant of anticipatory bail is not maintainable.
5. Learned counsel for the objector submits that in the complaint case, it has been clearly alleged, that it was applicant, who had knowingly and deliberately prepared forged papers to show that the land belonging to this complainant is different because of which the offence has been

committed in this case. Subsequent bail under Section 438 of CrPC is not maintainable, if, the earlier has been rejected on merits. Hence, it is prayed that the application may be rejected.

6. In reply, counsel for applicant submits that subsequent bail application under Section 438 of CrPC is maintainable and for this submission he placed reliance on the judgments delivered in ***Ganesh Raj Vs. State of Rajasthan in 2005 Cr.LJ 2086 FB*** and ***Jamohan Bhal Vs. State (NCT of Delhi)*** reported in ***(2014) 16 SCC 501*** wherein it has been held by the Supreme Court that in case there is change in the fact situations or in law, which requires the earlier view to be interfered with, second repeat application would be maintainable for extending benefit of anticipatory bail to the applicant.
7. Heard both the parties and perused the case diary.
8. The earlier application for grant of anticipatory bail of this applicant was considered and it was observed, that the allegation against the applicant is this that he has not only added names of co-accused persons in the land records against the disputed land but also provided false & forged documents to facilitate sale of the disputed land. Whereas, a civil suit regarding the same land was filed by the complainant and judgment passed in it is now under challenge before this Court.
9. After perusal of entire material on record, it appears that the case of the applicant was presented well in the earlier occasion also and the order has been passed by this Court after due consideration. Neither there is any new material nor any change in circumstances which should be taken into consideration in this application. Hence, I do not feel inclined to grant anticipatory bail to this applicant.

10. Accordingly, the second bail anticipatory bail application of applicant is rejected.

Sd/-

(Rajendra Chandra Singh Samant)

Judge

Nisha