

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 850 of 2018**

Jitendra Kumar Saraf S/o Shri Vijay Chand Saraf Aged About 30 Years
R/o Budhapara, Raipur, Tahsil And District Raipur, Chhattisgarh,, District :
Raipur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, City Kotwali, Raipur,
District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh.

---- Respondent

For the Applicant : Shri Vivek Sharma, Advocate.
For the Respondent/State : Shri Anupam Dubey, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****04.09.2018**

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. 155 of 2018, registered at Police Station – City Kotwali, Raipur, District – Raipur, Chhattisgarh for the offences 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 applicant agrees that he had entered into an agreement with some modification that his signature was obtained by force on the agreement. Apart from that, as per the contents of the

agreement, it is a case of civil nature and no case of forgery and cheating is made out. 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 there is clear evidence present in the investigation so far that the applicant has committed the offence. Hence, no case is made out for grant of anticipatory bail to the applicant.

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

6. The case against the applicant is that he entered into an agreement with complainant – Sanjay Chopda for sale of shop at the price of Rs.40,00,000/- and has received an amount of Rs.11,50,000/- in advance. Subsequently, he came to know that the shop was registered in the name of father of the applicant and there had been one earlier agreement to sale the same property, the FIR has been lodged.

7. Considered the material present in the case-diary and the complaint given by the complainant to the police dated 23.11.2017. The complainant himself has mentioned that the shop was registered in the name of father of the applicant. No investigation has been made in this respect whether the earlier agreement made by the complainant was still existing on the date he entered into an agreement with the complainant. Hence, for these reasons, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of anticipatory bail.

8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail by the Officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:

- '(i) that the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- (ii) that the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer;
- (iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.'

Sd/-
(Rajendra Chandra Singh Samant)
Judge