

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 918 of 2018**

Varun Jain S/o Vimal Jain Aged About 45 Years R/o 22/b, South Avenue,
Choubey Colony, Raipur, District Raipur, Chhattisgarh., District : Raipur,
Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Station House Officer, Police Station
Telibandha, District Raipur, Chhattisgarh., District : Raipur, Chhattisgarh.

---- Respondent

For the Applicant : Ms. Fouzia Mirza, Advocate.
For the Respondent/State : Shri Anupam Dubey, Dy. G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****29.08.2018**

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. 191 of 2018, registered at Police Station – Telibandha, District – Raipur, Chhattisgarh for the offences punishable under Section 420/ 34 of the Indian Penal Code.

3. It is submitted by counsel for the applicant that the applicant has been falsely implicated in this case by the complainant on the basis of false FIR lodged by him. The fact is that there had been no agreement in respect of Plot No.12 between the complainant and the concern of the applicant and

the complainant being misinformed has made such allegations that the said plot has been transferred by the registered sale deed. The concern of the applicant has still intention to transfer the land in favour of the complainant and complete the construction as agreed. No case is made out against the applicant. 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 it is a clear case of cheating by committing the fraudulent act by the applicant alongwith co-accused persons in which the mortgaged land has been sold by the applicant to two other persons. 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. Complainant – Rupesh Saraf has lodged FIR against the applicant and others alleging that the applicant is Director of M/s. Vicon Developers India Private Limited. On the proposals made by the applicant's concern, the complainant agreed to purchase plot No.12, for which he paid the advance amount and also paid remaining amount by obtaining loan from Axis Bank, Raipur. In this manner, he has paid Rs.1,43,10,000/- in total for the said property. Subsequently, when he went on the spot to enquire about his landed property, then he came to know that the same plot has been transferred by the registered sale deed to Sumit Jaiswal and Meera Jaiswal. The complainant tried to contact with the applicants and others in which he failed and then FIR has been lodged by him.

7. Considered the material present in the case-diary. The agreement between the complainant and M/s. Vicon Developers India Private Limited shows that the complainant had agreed to purchase Villa Nos. 13 and 14 of the property that were being developed. The agreement to sale with Meera Jaiswal does not show any plot number. Similarly, the documents of loan obtained from bank do not make any specific mention of plot number which has been mortgaged to the bank.

8. After due consideration of all the material present in the case-diary, I am of the considered view that the present is a fit case where the applicant should be benefited with grant of anticipatory bail.

9. 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

Nimmi