

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 979 of 2018**

Vijay Rajput, S/o. Shri Achchhe Lal Rajput, aged about 26 years, R/o. Nayapara Bodri, Thana – Chakarbhata, Tahsil and District – Bilaspur (C.G.)

---Applicant

Versus

State Of Chhattisgarh, Through : Police Station, Tarbahar, District – Bilaspur (C.G.)

---- Respondent

For Applicant	: Mr. S.S. Rajput, Advocate
For Respondent/State	: Mr. Anupam Dubey, Dy. Govt. Advocate.
For Objector	: Mr. H.B. Agrawal Sr. Advocate with Ms. Meera Jaiswal, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board**06/09/2018**

1. Apprehending arrest in connection with Crime No.214/2018, registered at Police Station – Tarbahar, District – Bilaspur (C.G.) for offence punishable under Section 420, 34 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. The applicant has different case that he had borrowed some amount from the complainant – Raj Kumar Rai and he has also repaid the same, even then on the basis of some of the papers on which the

signatures of the applicant was obtained by the complainant, unlawful demand was being made to repay the amount of Rs.28.00 lakhs to the complainant and as the applicant has refused to pay the same, he has been falsely implicated in this case. Otherwise, according to the case of the prosecution itself, it is clear that it is a case of civil nature based on agreements, which has not been performed by this applicant for which the complainant has civil remedy available. Hence, it is prayed that the applicant may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that looking to the evidence present on record of the case diary, no case is made out for grant of anticipatory bail.
4. Counsel for the objector adopts the arguments advanced by the learned counsel for the State and it is submitted that the applicant has a criminal history of having committed similar nature of offence on earlier occasions also regarding which documents have been filed and also this objection is raised that the land regarding which the agreement was entered into between the parties was already sold out to some Uttara Koshley, hence, it is clear case of cheating. Therefore, it is prayed that the application be rejected.
5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. According to the FIR lodged in this case, the applicant entered into an agreement with the complainant on 25.09.2015 for sale of the land and received consideration of Rs.4,70,000/- on the same day. Another agreement was entered between the parties for

construction on the same land and Rs.15.00 lakhs were received by the applicant as fees for construction. It is alleged that the applicant has not proceeded with the transfer of the said property and the construction over it. Hence, the FIR has been lodged.

7. Considered the submissions made and the contents of the case diary. Considering on the entire material present in the case diary, the case against the applicant is based on written agreement which have prima-facie face value and the claim can be raised before the Civil Court as well, hence for this reason, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.
8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is allowed.
9. 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 him/her 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram