

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 983 of 2018**

Pravin Kumar Kesharwani S/o Shivratri Prashad Kesharwani Aged About 45 Years R/o Village Shivrinarayan, Ward No. 11, Police Station Shivrinarayan District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh.

---- Applicant**Versus**

1. State Of Chhattisgarh Through The Station House Officer, Shivrinarayan, District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh
2. Shankar Lal Sahu S/o Negiram Sahu Caste Teli, R/o Shivrinarayan, Post Kera Road, Pul Mod, Tahsil Shivarinarayan District Janjgir Champa Chhattisgarh, District : Janjgir-Champa, Chhattisgarh.

---- Respondents

For the Applicant	:	Shri Pawan Kesharwani, Advocate.
For the Respondent/State	:	Shri Ashish Shukla, G.A.
For the Objector	:	Shri Ashutosh Trivedi, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****06.10.2018**

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 Criminal Complaint Case No. 130 of 2016, registered at Police Station – Shivrinarayan, District – Janjgir-Champa, Chhattisgarh, pending before the Court of Judicial Magistrate First Class, Pamgarh, District Janjgir-Champa, in which the cognizance has been taken for trial of the offences under Sections 420, 467, 468, 471 and 120-B read

with Section 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. The complainant is *bona-fide* purchaser of the land in question which he purchased on 6.11.2007 from the owner of the said land, co-accused – Manoj Kumar Agrawal. The sale-deed was duly registered and subsequently, the mutation has also taken place without any objection. A false complaint has been filed by respondent No.2 – Shankar Lal Sahu before the Court below making false allegations against the applicant, particularly for being involved in the offence which he has not committed. Hence, the applicant is apprehending arrested in this case and it is prayed that the applicant be benefited with grant of anticipatory bail.

4. Learned State counsel/ respondent No.1 opposes the bail application and the submissions made in this respect.

5. Learned counsel for respondent No.2 has submitted on behalf of the complainant that the applicant has no *bona-fides* in making the purchase of land on 6.11.2007. As the property was recorded in the name of one Hemlata and one affidavit was sworn by her in favour of Manoj Kumar Agrawal, which has been used for the fraudulent execution of sale-deed. Hence, the applicant had all the knowledge about the commission of offence of cheating by the co-accused person and he himself has participated in it. Hence, for these reasons, the application for grant of anticipatory bail may be rejected.

6. Heard counsel for both the parties and perused the case diary.
7. A complaint has been filed by Sankarlal Sahu alleging that he had made the purchase of the disputed land from the father of Manoj Kumar Agrawal in the year 1997 regarding which, co-accused Manoj Kumar Agrawal has executed the subsequent sale deed in favour of the applicant fraudulently with intention to cheat the complainant. Hence, this case.
8. The applicant is a subsequent purchaser of the disputed land. On the basis of the submission of the complainant in complaint if it is to be believed as it is, there is only a question to be determined in this case whether the applicant is a bona-fide purchaser or not. Hence, after due consideration of all the aspects of this case, I am of the considered opinion that the applicant deserves to be released on 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