

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1038 of 2018

- Vikas Bhojwani S/o Shri Chandraprakash Bhojwani Aged About 34 Years R/o- Sadar Bazar, Bilaspur, Presently R/o- Azad Nagar, Masanganj, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- P.S.- Civil Lines, District- Bilaspur, Chhattisgarh., District : Bilaspur, Chhattisgarh

---- Respondent

For Applicant	:	Mr. Devershi Thakur , Advocate.
For Respondent/State	:	Mr. Lav Sharma, Panel Lawyer.
For Objector	:	Mr. Ravi Kumar Bhagat, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

27/09/2018

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.686/2018 registered at Police Station-Civil Lines, District – Bilaspur(C.G.), for the offence punishable under Section 420/34 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. On 17.3.2016 the partners of MR Traders entered into an agreement with the applicant for sale of

their ownership land and on the basis of this agreement, on 4.7.2017 applicant entered into an agreement with complainant Dayanand Paswan for sale of same plot of land. Due to delay in development of said land, the sale deed could not be executed in time and therefore a false report has been lodged by the complainant. Hence, it is prayed that applicant be benefited with grant of anticipatory bail.

3. Learned State counsel opposes the bail application and the submissions made in this respect. It is submitted that the agreement dated 17.3.2016 was effective only upto 31.3.2017, hence, it is clear that on 4.7.2017 the applicant had no authorization to enter into agreement with the complainant for sale of same land. Hence, it is a clear case of commission of offence of cheating, therefore, the application is liable to be rejected.
4. Adopting the arguments advanced by learned counsel for the State, it has been submitted by learned counsel for objector that subsequent to agreement, he has paid Rs.11 lakhs to the applicant. The complainant is also a property dealer. He was making attempts to find purchaser of land in agreement but the applicant was not providing him the necessary documents showing his authorization for entering into a contract and later on, the objector came to know that the owners of the land in question namely Mahesh Duhlani and Ratan Guruwani had not authorized the applicant for entering into said transaction with the objector. Hence, it is prayed that application be rejected.
5. Heard both the parties and perused the case diary.
6. According to the FIR lodged this applicant entered into an agreement with complainant for sale of property and received Rs.11 lakhs in advance. Later on, the complainant had come to know that the

complainant had no authority to enter into such agreement.

7. Considered the entire material present in the case diary. The partners of MR Traders have not denied execution of agreement dated 17.3.2016, the applicant himself has not denied execution of agreement dated 4.7.2017 in favour of the complainant and thus, the complainant has an alternative remedy available of filing civil suit. Further, it appears that the parties to the aforesaid agreements are in dispute with each other. Therefore, considering the nature of dispute between the parties and allegation levelled against the applicant, I am of this view that this is a fit case where the applicant shall be enlarged on 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 his executing a personal bond in the 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 them by the said Court till disposal of the trial.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Nisha