

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1034 of 2018

1. Smt. Sarita Bajpai Wd/o Late Sanjay Bajpai Aged About 51 Years R/o Flat No. 402, Exotica Grand, Anupam Nagar, P. S. Pandri, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Yogeshwar Shukla S/o Late Mahaveer Shukla Aged About 47 Years R/o C-1 Block, Maharaja, Apartment, Shankar Nagar, Opposite Rto Groung Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Applicants

Versus

1. Abhishek Jain S/o Late Jagdish Jain Aged About 40 Years R/o Samta Colony, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. State Of Chhattisgarh Through The Collector, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondents

For Applicant : Mr. B.P. Sharma, Advocate.
For Respondent : Mrs. Madhunisha Singh, Panel Lawyer.
For Complainant : Mr. Y.C. Sharma, Advocate.

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

16/11/2018

1. The applicants have preferred this bail application under Section 438 of Cr.P.C. apprehending their arrest in connection with Criminal Comp. Case No.3959/2017 registered before the Court of JMFC, Raipur for

the offence punishable under Sections 420, 467, 468, 471, 120-B of the Indian Penal Code.

2. Learned counsel for applicants submits that applicants are innocent and have been falsely implicated in this case. It is submitted that a registered power of attorney was executed by the complainant in favor of Late Sanjay Bajpai, Director of Sanjay Bajpai Builders Private Ltd. on 12.6.2012. Sanjay Bajpai expired on 8.12.2015, subsequent to that in a demarcation proceeding, which was being made on the prayer of the complainant, it is alleged that the staff of Sanjay Bajpai Builder objected to the demarcation so made. Subsequent to which a dispute has arisen. It is submitted that even if it is so, that the alleged power of attorney is a forged one, then these applicants had no role to play as they were not the signatories to said power of attorney nor they have drawn any benefits from the same, hence, it is prayed that they may be released on anticipatory bail.
3. Learned State counsel opposes the bail application and the submissions made in this respect.
4. Learned counsel for the respondent submits that there is clear allegation against the applicants, who are Director & Manager-cum-Director of Sanjay Bajpai Builders Private Ltd., that both have made use of the same power of attorney to draw benefits and to object to the demarcation proceedings. The questioned power of attorney has been examined by the Handwriting Expert and reported that the signature purported to be that of complainant is a forged one, hence, no case is made out for grant of anticipatory bail.
5. Heard both the parties and perused the case diary.
6. Complaint has been brought by respondent No.1 alleging that Late

Sanjay Bajpai got executed a power of attorney in his favor from complainant which was being used by him and subsequent to his death by these applicants to draw benefits of the same in making transactions and other things. Dispute arose on the date of demarcation when the staff and employees of Sanjay Bajpai Builders objected to the demarcation and thereafter this complaint has been brought making allegation against these applicants.

7. Considered on the material and documents filed along with application including the copy of complaint and other documents. It appears that these applicants were not party to the power of attorney dated 12.6.2012 and that there is no further explanation about the benefits drawn. Hence, I am of this opinion that applicants should be granted anticipatory bail.
8. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on their executing a personal bond in the sum of Rs.25,000/- each with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicants shall also abide by the following conditions :
 - (i) that the applicants shall make themselves available for interrogation before the investigating officer as and when required;
 - (ii) that the applicants 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 applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicants 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