

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**Order Reserved on : 20/09/2018****Order Delivered on : 25/09/2018****M.Cr.C.(A) No. 1055 of 2018**

Hardeep Singh Khanuja, s/o Late Kalyan Singh Khanuja, aged about 47 years, R/o. Sirgitti, Bilaspur, District Bilaspur, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh through Police Station Takhatpur, District Bilaspur, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Manoj Paranjpe and Shri Bharat Sharma, Advocates.
For the Respondent/State	:	Shri Ashok Swarnakar, P.L.
For the Objector	:	Shri Arvind Shrivastava and Shri R.S. Marhas, Advocates.

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

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. 250 of 2016, registered at Police Station – Takhatpur, District – Bilaspur, Chhattisgarh for the offences punishable under Sections 420, 467 and 468 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 applicant is a builder and holder of

colonizer license. The applicant, the complainant and others entered into a partnership agreement on 12.10.2010 and clause-12 of the same has authorized the partners Ravi Motwani and Sunil Chhabda to enter into contracts, sign agreements, receipts and to transfer on behalf of the firm and they also had authorization to authorize any other partner similarly.

A declaration-cum-consent letter was given by the partners of this firm in favour of the applicant on 3.11.2010 authorizing the applicant to enter into an agreement with purchaser, receive advance money and do the other things necessary. Consequent to this declaration, the applicant had entered into an agreement for sale with Adhiraj Infra Estate Private Limited for sale of land and the advance amount was also received by him under that authorization. As some dispute arose between the partners, an application was filed under Section 156(3) of the Cr.P.C. before the Court of Takhatpur against the applicant alleging that the applicant had no authority to enter into an agreement and receive the advance and that he has forged the agreement and declaration-cum-consent letter, on the basis of which, the order has been passed by the Judicial Magistrate First Class for registration of FIR against the applicant. The complainant and other partners had earlier gave statement to the police admitting that they had executed the declaration-cum-consent letter. On the basis of which, the complaint was found to be false in the investigation. Hence, for these reasons, the final report was prepared in the year 2015 and even the report of the handwriting expert was in favour of the applicant. Subsequent to that, without any basis, FIR has been lodged in the year 2016 and another case has been registered against the applicant. The applicant has been granted bail by the concerned Court in Crime No. 234 of 2015 and the application for cancellation of the said bail has also been rejected. It is also submitted that

Mukesh Kedia who has come as Objector has no *locus standi* to object the application. Hence, for these reasons, 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 the final report submitted in Crime No. 234 of 2015 has not been accepted by the Court of Judicial Magistrate First Class. The declaration-cum-consent letter dated 23.7.2010 sent for examination by handwriting expert and the report that has been received against the applicant. The investigation against the applicant is complete with *prima facie* evidence. Hence, this case has no merits for grant of anticipatory bail to the applicant.

5. Shri R.S. Marhas, learned counsel for the complainant/ objector submits that according to the partnership deed, the applicant could have been authorized only by the other partners, namely, Ravi Motwani and Sunil Chabbada and declaration-cum-consent letter dated 23.11.2010 cannot be considered as a document of authorization. The complainant has specifically alleged that the signatures of the complainant and other authorized parties on the documents, have been forged by the applicant. The consent letter dated 23.11.2010 does not mention about the partnership deed dated 28.9.2010, which also makes it suspicious document. It is further submitted that the applicant is an influential person having relation with the government officials and police officials. Hence, if he is released on bail he will not allow the investigation to be completed in this case. It is also submitted that similar other cases are also pending against the applicant and particularly, in this case there should be requirement of custodial investigation, hence, the

application be rejected.

6. Shri Arvind Shrivastava, Advocate for the Objector – Mukesh Kedia submits that this objector has *locus standi* because the applicant has committed numerous acts of fraud and cheating and number of cases are pending against him. There are number of victims in this case who are members of the society. Hence, looking to the numerocity of the cases against the applicant, he was not entitled for grant of anticipatory bail.

7. In reply, learned counsel for the applicant submits that it cannot be denied that in the earlier investigation the complainant and other witnesses had given statement admitting that they had given the power of attorney in favour of the applicant which shows development made in the investigation later on. Hence, for these reasons, the applicant is entitled for grant of anticipatory bail.

8. Heard counsel for both the parties and perused the case diary.

9. The case against the applicant is this that without having authority to enter into an agreement for sale with Adhiraj Infra Estate Private Limited, he entered into an agreement on 25.11.2011 and has received an advance of Rs.1,06,61,000/-, which has been misappropriated by the applicant.

10. On perusal of the case-diary, it appears that the Additional Estate Examiner of the questioned document has reported that the signatures of the complainant and others authorizing the applicant are not similar to the signatures of those persons obtained as sample handwriting on the disputed

document. There is also one report of private handwriting expert submitted by the applicant, in which, the signatures on the disputed documents have been compared with signatures of the signatories on some other documents regarding which, there is no admission made by any of the signatories. After due consideration on all the material present in the case-diary and the fact that the allegations against the applicant have support of evidence, hence, I do not feel inclined to allow the application.

11. Accordingly, the anticipatory bail application is rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge