

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1069 of 2018

- Smt. Bushra Raza Sharif W/o Late Shri Mohammad Sharif, Aged About 38 Years, R/o- Amaltaspuram District- Dhamtari, Police Station Dhamtari, Tahsil- Dhamtari, Civil And Revenue District- Dhamtari, Chhattisgarh., District : Dhamtari, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through- Station House Officer, Police Of Police Station- Mova- Pandri, Raipur, District- Raipur, Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

For Applicant – Shri Ashutosh Shukla, Advocate.

For Non-applicant/State – Shri Lav Sharma, Panel Lawyer.

Shri Raghavendra Pradhan, Advocate of the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

25-09-2018

1. Apprehending arrest in connection with Crime No.288/2018, registered at Police Station – Mova- Pandri, Raipur, Distt. Raipur, Chhattisgarh for offence punishable under Section 420 of the IPC, the applicant has preferred this application for grant of anticipatory bail.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The case from the very inception is a civil matter. The applicant had entered into agreements with complainant Sanam Ajaj Qureshi on 23-01-2016 and 25-02-2016 for sale of land on her title, regarding which she has received amount of Rs.5 lakhs in each agreement. Subsequent to that some dispute arose within the family, because of which, the applicant was compelled to execute the deed of relinquishment in favour of other family members and owners of the joint family property on 10-03-2017, hence, the agreements became unexecutable. When the applicant proposed to return the amount received in advance to the complainant, the complainant has lodged this FIR which is totally false. Hence, it is prayed that the applicant may

be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that apart from the receipt of advance amount Rs.10 lakhs of the complainant the applicant has also received Rs.32 lakhs in cash regarding the another agreement dated 13-02-2016 seized in the investigation and denial of receipt of this amount itself shows the intention of cheating of the applicant, hence, it is a clear case of cheating, therefore the applicant is not entitled for grant of anticipatory bail.

4. Learned counsel for the objector submits that subsequent to the execution of the agreements to sale the applicant had deliberately executed a relinquishment deed on 10-03-2017 relinquishing the rights over the property regarding which the agreement had taken place which shows her intention to defraud the other party in the agreement to sale. The denial of the applicant about receipt of Rs.32 lakhs by itself shows her intention to cheat regarding which there is evidence present and the witnesses have made statement. Hence, it is not a case where the applicant should be benefited with grant of anticipatory bail.

5. Heard learned counsel for the parties and perused the case diary.

6. The case against the applicant is briefly discussed hereinabove.

7. There is no dispute regarding execution of agreements on 23-01-2016 and 25-02-2016 and receipt of advance Rs.10 lakhs for both the agreements. The dispute is lying only with the receipt of Rs.32 lakhs from the complainant regarding which the investigator has collected evidence and the witnesses have also given statement under Section 161 of the Cr.P.C. Hence, it is not a case in which criminal jurisdiction does not come to play, on the other hand, this case has a glimpse of civil nature, as the complainant has himself lodged a civil suit against the applicant and as it appears that civil remedy available to the complainant has not exhausted. Hence, after due consideration and

looking to the nature of the case and also considering age of the applicant, I am of this opinion that this applicant should be benefited with grant of anticipatory bail.

8. Accordingly, the anticipatory bail application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail by the officer arresting her 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 herself 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 her by the said Court till disposal of the trial.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge