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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1208 of 2018**

Ashok Kumar Mehta S/o late P.L. Mehta, aged about 70 years, occupation Businessman, R/o. Station Chowk, Darogapara, Raigarh, P.S. Kotwali, Tahsil & District Raigarh, Chhattisgarh, Civil & Revenue District Raigarh, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, P.S. Kotwali, District Raigarh, Chhattisgarh.

---- Respondent

For the Applicant	:	Shri Sourabh Sharma and Shri Tarkeshwar Nande, Advocates.
For the Respondent/State	:	Shri Ashish Shukla, G.A.

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 Crime No. 1019 of 2017, registered at Police Station – Kotwali, District – Raigarh, Chhattisgarh under Sections 420, 467, 468, 471 and 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 applicant is a partner of a firm styled as

M/s Srinivas Gupta which was registered on 26.11.1997 during the lifetime of Srinivas Gupta. Earlier the complaint filed by the complainants was not entertained by the police by making a statement that the dispute is with regard to the allotment of shop by Municipal Corporation and a report was given vide Annexure-A/2 dated 23.5.2018. The applicant had also filed a complaint against the complainants on the same date i.e. 19.5.2018 that the complainants and others had made an attempt to dispossess him from the shop in his possession of which the police had not taken any action. The applicant is in possession of all the tenancy receipts issued by Municipal Corporation and has a claim on the disputed shop even then, the FIR has been lodged against them. Hence, 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 a disputed shop was originally allotted in the name of Srinivas Gupta but later on, the applicant has in connivance with the municipal authorities manipulated the record of the Municipal Corporation showing the allotment in favour of partnership firm M/s. S.N. Gupta and thus, unauthorizedly occupied the disputed shop hence, *prima facie* case is made out for the offence of cheating and forgery, therefore, the application be rejected.

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

6. The claim of complainants - Hemlata Agrawal and Tejlata Agrawal is that they are the daughters of late Srinivas Gupta and the disputed shop No.60 of the Municipal Corporation was allotted in the name of their father.

The applicant and the co-accused have in collaboration and connivance with the Municipal Officials have occupied the shop and have let it out to another person fraudulently. Hence, this case.

7. It needs further investigation to find out as to how the partnership firm of the applicant styled as M/s. S.N. Gupta got entered in municipal records with respect to the shop allotted in favour of S.N. Gupta. On perusal of the case-diary, it appears that the claim made by the complainants is yet to be investigated. Hence, under the present circumstances, I am of the considered opinion that the applicant deserves to be released 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 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