

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.1009 of 2017

1. Manoharlal Patel S/o Late Sudhakar Patel Aged About 53 Years Caste Aghariya, Occupation Agriculture R/o Village Mahuatikra Patthalgaon Tahsil Pattalgaon, District Jashpur Chhattisgarh , Chhattisgarh
2. Lila Ram Patel S/o Late Sudhakar Patel Aged About 51 Years Caste Aghariya, Occupation Agriculture R/o Village Mahuatikra Patthalgaon Tahsil Pattalgaon, District Jashpur Chhattisgarh , District : Jashpur, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station Patthalgaon, District Jashpur Chhattisgarh , Chhattisgarh

---- Respondent

MCRCA No.1017 of 2017

- Dr. Motichandra Patel S/o Late Jeevanlal Patel, Aged About 67 Years Caste Aghariya, Occupation Agriculture R/o Village Mahuatikra Patthalgaon Tahsil Pattalgaon, District Jashpur Chhattisgarh, Chhattisgarh

---- Petitioner

Versus

- State Of Chhattisgarh Through Police Station Patthalgaon, District Jashpur Chhattisgarh, Chhattisgarh

--- Respondent

Shri Sudeep Johri, counsel for applicants.
Shri S. Majid Ali, Dy.GA for State.
Shri Sanjay Agrawal, counsel for Objector.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

02/02/2018

Heard.

2. The aforesaid two applications are being disposed off by a common order as both applications arising out of same crime number. The applicants in the aforesaid two bail applications (MCRCA Nos.1009 & 1017 of 2017) under Section 438 of Cr.P.C., apprehending their arrest in connection with Crime No.196/2017,

registered at Police Station–Patthalgaon, District Jashpur for alleged commission of offence under Sections 420, 467, 468, 120-B of IPC and Section 3(1), 4 & 5 of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 (In short “the Act”).

3. Case of the prosecution is that the applicants committed fraud and in fraudulent transaction of sale, purchased land, which originally belonged to tribal-Pujeri. The complainant-Ghanaram is son of Pujeri.

4. Learned counsel for the applicant submits that an attempt has been made to convert the civil dispute into criminal one and false allegations have been levelled, without there being any criminal overt act committed by the applicants. He would submit that vide registered sale deed, father of the complainant-Pujeri sold his land to Tirathram on 28-03-1975. On 10-10-1994, Tirathram sold the land to Chamru Ram Saora. In the year 1996, proceedings under Section 170-B of the Land Revenue Code were initiated, which ultimately came to be dismissed on 31-03-1998. In the year 2008, this Court vide order dated 10-01-2008 in W.P.No.1007 of 2006, held that 'Saura' caste is not included in the Scheduled Tribe category. Thereafter, the applicants purchased the said land from Dinesh S/o Chamru Ram Saura vide registered sale deed dated 10-02-2010. He submits that thereafter proceedings were initiated at the instance of Ghanaram S/o Pujeri, though Pujeri had sold the land way back in the year 1975. The Sub Divisional Officer (Revenue), Pathalgaon vide order dated 10-03-2017 issued direction for return of land to Ghanaram, against which, the present applicants have preferred an appeal before the Collector, which was dismissed and thereafter, now the applicants have preferred second appeal before the Commissioner, which is still pending consideration. He submits that in this background, it reveals that the applicants have not committed any criminal act.

5. On the other hand, learned State counsel as well as learned counsel for the Objector opposed the prayer for grant of bail by submitting that the land originally belonged to Pujeri, who was tribal and he sold the land to Tirathram and Tirathram sold the land to Chamru Ram and sale deed clearly indicate that both were tribal. In the year 2010, Dinesh S/o Chamru Ram sold the land to the present applicants, showing himself as non-tribal. He also submits that there were number of co-owners of the subject property, out of them, only Dinesh has

executed the sale deed on the basis of unregistered power of attorney alleged to be given by his brothers and sisters, therefore, prima facie case is made out against the present applicants.

6. It appears that the complainant-Ghana Ram is son of Pujeri. Pujeri sold the land in the year 1975 to Tirathram, who in turn, sold the land to Chamru Ram Saura. Pujeri and his legal heirs never raised any dispute at that time or even at the time of sale of property in the year 1994 by Tirathram to Chamru Ram. Moreover, it is found that thereafter, in the year 2010, Dinesh S/o Chamru Ram sold the land to the present applicants. There is nothing in the case diary to show that either Dinesh or any of his relatives has alleged that they never sold the land to the present applicants. Therefore, in these circumstances, I am inclined to protect the applicants to the benefit of anticipatory bail.

7. Though learned counsel for the respondents objected to the maintainability of the application for grant of anticipatory bail in view of the provision contained in Section 18 of the Act of 1989, this Court, in view of the law laid down by this Court in the cases of ***Satyaprakash vs. State of C.G., 2004(1) C.G.L.J. 162*** & ***Abdul Abbas vs. State of C.G., 2005 (2) C.G.L.J. 235***, where entire allegations even taken as it is did not prima facie make out a case of commission of offence, relief of anticipatory bail may not be denied.

8. Accordingly, both the applications(**MCRCA Nos.1009 & 1017 of 2017**) are allowed. It is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on bail on each of them furnishing a personal bond for a sum of Rs.25,000/ with one surety in the like sum to the satisfaction of the arresting officer, on the following conditions that:

- (I) they shall make themselves available for interrogation by a police officer as and when required;
- (ii) they 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 from disclosing such facts to the Court or to any police officer, *and*
- (iii) they shall cooperate with the investigation as and when they are called.

SD/-
(**Manindra Mohan Shrivastava**)
Judge