

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****MCRC No. 8156 of 2017**

1. Ashish Jain S/o Late Rajendra Kumar Jain Aged About 40 Years
2. Vikas Jain S/o Late Rajendra Jain Aged About 45 Years

Both R/o 22, Prem Pushp Vihar Jalvihar Colony, Raipur District Raipur
Chhattisgarh

---- Applicants**Versus**

State Of Chhattisgarh Through Station House Officer, Police Of
Police Station Telibandha, Raipur, Chhattisgarh

---- Non-applicant

For applicants	: Shri Rajeev Shrivastava, Adv.
For State	: Smt. M. Asha, Panel Lawyer.

Hon'ble Mr. Sharad Kumar Gupta, Judge**ORDER****9-2-2018**

1. This is second bail application under Section 439 of the Cr.P.C. preferred by the applicants before this Court. Their first bail application MCRC No. 4693/2017 was dismissed by this Court vide order dated 1-11-2017 on merit.
2. Perused the copy of charge-sheet provided by the learned counsel for the applicants in connection with crime No. 355/2016 registered in Police Station – Telibandha, District - Raipur (C.G.) for the offence punishable under Sections 420, 34 of the Indian Penal Code.
3. Case of the prosecution, in brief, is that the applicant No.1 Ashish Jain had sold a Flat No. 102 to the applicant No. 2 Vikash Jain on 18.01.2006. The applicant No.2 had taken the loan of Rs. 14,00,000/- from the HDFC Bank. The applicant No. 2 again sold the flat to the Complainant Smt. Kanan Girishchand Agrawal on 13.03.2006 for an amount of Rs. 16,20,000/-. Both the applicants have not brought the aforesaid facts to the said Complainant that the said property is mortgaged with HDFC Bank and thus committed cheating with the Complainant. The said flat is

situated in Khushi Residency at Raipur. As per the copy of the Zerayam there are 8 cases registered against the applicants.

4. Shri Rajeev Shrivastava, counsel for the applicants argued that the complainant has already got possession of the flat; there is dispute of identity of the flat; there is a mismanagement and the dispute is civil in nature; the complainant had already been examined during trial and she stated in her statement that she had rented out the flat as owner, she wants the applicants to pay loan regarding the flat; in other cases, the applicants have been enlarged on bail. He relied on the decision of the Hon'ble Supreme Court in the matter of **Sanjay Chandra -v- Central Bureau of Investigation** [(2012 (1) SCC 40)].

5. On the other hand, learned State counsel opposed the bail application.

6. There is no material change in the circumstances which may entitle the applicants to get benefit of section 439 of the Cr.P.C. in the second round of bail application.

7. Looking to the facts and circumstances of the case, looking to the seriousness of the offence, looking to the impact of granting bail to the applicants on society, this Court finds that the applicants do not get any help from the aforesaid order of the Hon'ble Supreme Court.

8. Consequently, the second bail application is dismissed.

Sd/-
(Sharad Kumar Gupta)
Judge