

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 50 of 2019

1. Chandramani Kushwaha W/o Dadan Ram Kushwaha, Aged About 65 Years, Caste Koir, R/o Village Gandhinagar, Ambikapur, P.S. Gandhinagar Dehat, Tehsil Ambikapur, District Surguja Chhattisgarh, District : Surguja (Ambikapur), Chhattisgarh
2. Kalawati Kushwaha W/o Late Devnath Kushwaha, Aged About 70 Years, Caste Koir, R/o Village Rajbajar, P.S. Bhaiyathan, District Surajpur Chhattisgarh, District : Surajpur, Chhattisgarh

---- Applicants

Versus

- State Of Chhattisgarh Through The Police Station Jainagar, District Surajpur Chhattisgarh, District : Surajpur, Chhattisgarh

---- Non-applicant

For Applicants – Shri Rakesh Pandey, Advocate.

For Non-applicant/State – Shri Adil Minhaj, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

15-01-2019

1. Apprehending arrest in connection with Crime No.344/2018, registered at Police Station – Jainagar, District Surajpur, Chhattisgarh for offence punishable under Section 420/34 of the IPC, the applicants have preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicants that the applicants have been falsely implicated in this case. Both the applicants are old aged and illiterate persons. It is not denied that they have entered into an agreement with Pankaj Shrivastava and this contract was mediated by Ravikant Singh and Dinesh Kumar Singh. No amount of advance was received by these applicants, which was in fact received by the mediators who have not passed on the same to the applicants. The applicants did not have knowledge of the earlier agreement with the complainant, they have simply believed their counsel Dinesh Kumar Singh and affixed their signature on the documents wherever he pointed out to them. The applicants have though sold out the said property to

another person which may amount to simple breach of earlier contract which is a case of civil nature. Therefore, it is prayed that these applicants may be granted anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the applicants are the persons who had executed the earlier agreement and had acknowledged receipt of the money from the complainant, hence, it is a clear case of breach of trust, therefore, they are not entitled for grant of anticipatory bail.

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

5. The case against these applicants is this, that, on 21-03-2017 both the applicants being owner of the property entered into a written agreement with complainant Pankaj Shrivastava for sale of the land and acknowledged receipt of advance money Rs.26,48,000/-. In the later development both these applicants sold out the same property to another person by sale deed dated 25-09-2017 and thus have committed breach of trust without making their intention clear regarding refund of the amount advanced to them.

6. It has been submitted by learned counsel for the applicants that all the amount have been received by the Advocate Dinesh Kumar Singh, who has also made some refund to the complainant and further co-accused Dinesh Kumar Singh has been granted anticipatory bail by the Sessions Court itself.

7. After considering on the entire material present in the case diary and considering the age and condition of the applicants, I feel inclined to allow the application.

8. Accordingly, the anticipatory bail application is allowed. It is directed that in the event of arrest of these applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them 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. These

applicants shall also abide by the following conditions :

- (i) that they shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that 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/her from disclosing such facts to the Court or to any police officer;
- (iii) that they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge