

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No. 98 of 2019**

1. Roshan Lal Agrawal, S/o. Shri K. K. Agrawal, Aged About 38 Years,
 2. Danesh Agrawal, S/o. Shri K. K. Agrawal, Aged About 32 Years,
- Both are R/o. 002/ S.S. Enclave, Next to S.S. Plaza, Power House Road, Tahsil Korba, Chhattisgarh.

----Applicants**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station Kotwali, District Korba, Chhattisgarh.

---- Respondent

For Applicants	: Mr. Rajeev Shrivastava, Advocate
For Respondent/State	: Mr. Devendra Pratap Singh, Dy.A.G.
For Objector	: Mr. Mateen Siddiqui with Mr. Fasal Akhtar, Advocates

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****30/01/2019**

1. Apprehending arrest in connection with Crime No.956/2018, registered at Police Station – Kotwali, District – Korba (C.G.) for offence punishable under Section 420/34 of the Indian Penal Code, the applicants have preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicants, that the applicants have been falsely implicated in this case. No case is made out against the applicants on the basis of the material present in the case diary. Clearly there is a tenancy agreement

between the applicants and the complainant – Ashok Agrawal and there also had been an agreement for sale of tenanted property between the applicant and the complainant on the basis of which, the applicants are in possession of the disputed property and they have made advance payment of Rs.1.80 Crores in compliance of the terms of the agreement towards payment of consideration of Rs.2.21 Crores, which is not denied by the complainant. Therefore, the complaint itself reveals that the case of civil nature is being given colour of criminal nature. The applicants have also filed Cr.M.P. No.1448/2018 against the intended criminal proceeding in which this Court has been pleased to grant interim relief by order dated 30.07.2018 and it has been directed that no coercive steps shall be taken against the petitioner. Therefore, the complainant has made this false complaint against this applicants only to frustrate civil action against him. Hence, under these circumstances, it is prayed that the applicants may be enlarged on anticipatory bail.

3. Per contra learned State counsel opposes the application for grant of bail and the submissions made in this respect. It is submitted that on the complaint made by the D.S.P. Crime Branch, Bilaspur in which it has been reported that initially there had been a tenancy agreement between the applicant and the complainant. The claim of the applicants regarding agreement to sale of the property was enquired into and it was found that there is no written agreement present and the affidavits of the witnesses presented by the applicants has been found to be false as the said witnesses namely Sunil Gupta and Balram Haryani have themselves made statement before the police in this respect. Therefore it is high handed

fraudulent act on the part of the applicants for taking over of the property of the complainant. Therefore, it is prayed that the application be rejected.

4. Counsel for the objector after adopting the arguments advanced by the learned counsel for the State submits that all the amounts that have been deposited by the applicants in the bank accounts of the complainant pertains to rent amount and that deposit is not in excess in any manner. As the complainant had asked the applicants to vacate the tenanted premises on the basis of the bonafide need, but the applicants have hatched the conspiracy on the basis of the imaginary agreement to sale to file civil suit, which is not supported with any written documents between the parties. As it is stated by the applicants that agreement to sale was executed in the year 2013, thereafter, the execution of the rent agreement 25.03.2014 itself falsifies the claim of the applicants. It has been found in the police enquiry that the affidavit sworn by the witnesses in support of imaginary agreement have been found to be false on the basis of the admissions made by the witnesses themselves, therefore, no case is made out for grant of anticipatory bail.
5. In reply counsel for the applicants submits that the complainant is very influential persons, therefore, to avoid the civil liability, which will come against him on the basis of the civil suit filed, he has made approach through criminal jurisdiction, therefore it is prayed that the applicants may be enlarged on bail.
6. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.

7. It is not disputed that the applicants had entered into an agreement of tenancy of the disputed premises. The claim over the property that has been made by the applicants on the basis of some contract is non-existent, as there is no written document in this respect and neither there is any admission made by the complainant side. The police enquiry has revealed that the affidavits in support of the same agreement have also been found to be false. Hence, the allegation that the applicants have conspired to take over the property of the applicant by hook and crook can not be said to be without any substance at this stage. Therefore, it can not be said that the civil claim of the applicants is well founded and supported with prima-facie documents of contract between the parties and there is legitimate civil claim present of the applicants. On the other hand the documents attached with the objection filed by the respondent and the material present in the case diary, the impression seems to be otherwise. Hence for this reason, this Court is not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicants.
8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge