

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No. 181 of 2019**

1. Ramkumar S/o Shri Maniram, Aged About 48 Years, R/o Village Madanpur, P. S. And Tahsil Kharsia, District Raigarh Civil And Revenue District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh
2. Rajkumar S/o Shri Maniram, Aged About 45 Years, R/o Village Madanpur, P. S. And Tahsil Kharsia, District Raigarh Civil And Revenue District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh
3. Devendra S/o Shri Maniram, Aged About 42 Years, R/o Village Madanpur, P. S. And Tahsil Kharsia, District Raigarh Civil And Revenue District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

**---- Applicants**

**Versus**

- State Of Chhattisgarh Through P. S. Kharsia, District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

**---- Non-applicant**

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For Applicants – Shri Manoj Kumar Sinha, Advocate.

For Non-applicant/State – Shri Rahim Ubwani, Panel Lawyer.

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**Hon'ble Shri Justice Rajendra Chandra Singh Samant**

**Order on Board**

**26-02-2019**

1. Apprehending arrest in connection with Crime No.193/2018, registered at Police Station – Kharsia, District Raigarh, Chhattisgarh for offence punishable under Section 447, 379, 427, /34 of the IPC and Section 3 (1) (ठ), 3 (2) (5) A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, the applicants have preferred this application for grant of anticipatory bail under Section 438 of the Cr.P.C.
2. It is submitted on behalf of the applicants that these applicants have been falsely implicated in this case. No case is made out against them. The fact is this, that the land in dispute bearing Khasra No.88 situated at Village Madanpur was originally purchased by Ramdas on 10-02-1976. In the mutation the name of father of the applicants was also entered into the said property. Subsequently, the disputed land was ordered to be remitted back to the vendor who happened to be a member of Scheduled Tribes, under the provisions of

Section 170(B) of the C.G. Land Revenue Code. The applicants side had contested that order in appeal and finally by order of Commissioner dated 14-11-2017 they have succeeded, on the basis of which the said land is now again entered into the name of the applicants and they have also received the possession through proper process. The complaint is baseless as the seller of the property in the sale deed of the complainant named as Dharamlal is not the person entitled to make that transfer and otherwise during pendency of the litigation the property could not have been transferred. Therefore, it is prayed that these applicants may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application submitting that according to the FIR lodged, the complainant had made valid purchase of the disputed land and had raised construction on it, which has been encroached upon by the applicants. Therefore, no case is made out for grant of anticipatory bail.

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

5. According to the complaint made, complainant Sadanlal Rathiya purchased the land bearing Khasra No. 88 from one Dharamlal and had raised construction on it. It is alleged that on 13-12-2017 the applicants dismantled the construction and have taken possession of the disputed land.

6. After due consideration on the entire material present in the case diary and also perusing all the documents filed along with the application, it appears that the land in dispute is Khasra No.88 which is the subject matter of the sale deed in favour of the applicants as well in favour of the complainant. There is no dispute that the order of remission to the vendor of the tribal community was challenged and in which the applicants have succeeded. According to the papers submitted, it appears that possession was handed over to the applicants procedurally. Therefore, after due consideration, I feel inclined to allow this application.

7. 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.

8. Certified copy as per rules.

Sd/-  
**(Rajendra Chandra Singh Samant)**  
Judge