

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 229 of 2019

- Ram Kumar Rai @ Kali S/o Late Shri Chhatthi Rai, Aged About 41 Years, Address Street No.20, Block 4/A, Sector No.- 7, Bhilai, Police Station Bhilai Nagar, Sector- 6, District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh, Through – District Magistrate, Durg Police Station Utai, District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Non-applicant

For Applicant – Shri Manish Upadhyay, Advocate.

For Non-applicant/State – Shri I. Lakda, Deputy Govt. Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

01-03-2019

1. Apprehending arrest in connection with Crime No.428/2018, registered at Police Station – Utai, District Durg, Chhattisgarh for offence punishable under Section 420, 406, 120-B, 34 of the IPC, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant is bonafide purchaser of the land bearing Khasra No.1008 from vendor Lakhanlal Deshlahare through his power of attorney holder Virendra Kumar Giri on 04-05-2011. Lakhanlal Deshlahare was alive at that time. After death of Lakhanlal Deshlahare his wife, complainant Ramabai has raised a false dispute making allegation that the land was already mortgaged in the bank which could not have been sold to any third person. The fact is this, that before the sale of land all the loan amount was repaid to the bank, regarding which statement has been made by the parties in the sale deed. Therefore, no case is made out against the applicant. Hence, it is prayed that the applicant may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant opposes the application and submits that the land bearing Khasra No.1008 originally belongs to Lakhanlal Deshlahare whose wife is the complainant. In the complaint it is alleged that Lakhanlal Deshlahare never repaid the loan, therefore, the land was still mortgaged with the bank and by some fraudulent act, land broker Virendra Kumar Giri has obtained some signatures of the deceased and made use of the same for selling out the property in connivance with the bank officials. Therefore, the case needs investigation, because of which custodial interrogation of the appellant may also be required. Hence, the application may be rejected.

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

5. According to the FIR lodged by the Manager, Dena Bank, it is alleged that Lakhanlal Deshlahare mortgaged his land bearing Khasra No.383/6, now Khasra No.1008 and without repaying the loan he again mortgaged the same land with Cooperative Bank and obtained a loan of Rs.2,00,000/-. The Dena Bank had obtained the possession of the land under the provisions of SARFAESI Act and initiated proceeding for recovery of the loan from the borrower. Later on, complainant Ramabai, wife of Lakhanlal (now deceased) has filed a complaint that the applicant with the help of others by making use of forged documents has got the sale deed executed in his favour.

6. Considered on the entire material present in the case diary. The applicant is purchaser of the land in question through registered sale deed. The illegality and entitlement on the land by such sale is a question to be determined by the Court of Law, but as it appears that the applicant has made this purchase very much before in the year 2011 and the dispute has been raised after passing of long 8 years, hence, under these circumstances, 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 the applicant in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on 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. The applicant shall also abide by the following conditions :

- (i) that the applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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 the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge