NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

Order Reserved on : 01/07/2019

Order Delivered on : 18/07/2019

M.Cr.C. No. 1080 of 2019

Arif Ahmed Qureshi S/o Late Shri Mumtaz Ahmed Qureshi Aged About 47 Years R/o Noorani Chowk Rajatalab, P. S. Civil Lines, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through The District Magistrate, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh.

---- Respondent

And

M.Cr.C. No. 1087 Of 2019

1. Afatab Siddiqui S/o Mateen Siddiqui Aged About 40 Years R/o Nayapara, Tatyapara Chowk, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh
2. Abdul Gani S/o Abdul Gaffar Aged About 45 Years R/o Nayapara, Tatyapara Chowk, Raipur District Raipur Chhattisgarh, District : Raipur, Chhattisgarh.

---- Applicants

Vs

State Of Chhattisgarh Through The Police Station Pandri Police, District Raipur Chhattisgarh, District : Raipur, Chhattisgarh.

---- Respondent

For the Applicants	:	Shri Kishore Bhaduri with Shri Pawan Kesharwani, Shri Kshitij Sharma and Shri Pragalba Sharma, Advocates.
For the Respondent/State	:	Shri Vikram Dixit, G.A.
For the Objector	:	Shri Adil Minhaj, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

CAV ORDER

Heard.

1. Both these applications are being decided by a common order as they arise from the similar matter. These are the first bail applications of the

applicants filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to the applicants who have been arrested in connection with Crime No.23 of 2019, registered at Police Station Pandri, District Raipur, Chhattisgarh for the offence punishable under Sections 420, 467, 468 and 471 read with Section 34 of the Indian Penal Code.

2. Learned counsel for the applicants submit that the applicants in both the cases are in jail since 17.1.2019 and they have been falsely implicated in these cases. The property in dispute in this case belonged to Mohammad Idris and the same property has been sold by Mohammad Idris to applicant – Afatab Siddiqui in M.Cr.C. No. 1087 of 2019 by registered sale deed executed in the year 2017-2018. Complainant – Ayesha Siddiqui is daughter of Mohammad Idris who had been living separately from her father since about 35 years. She has made totally false allegations against the applicants which is without any substance and with ulterior motive. The vendor of the property himself has no grievance. On the contrary, Mohammad Idris had filed a complaint in support of the applicants before the Court below which is attached as Annexure-A/2 in M.Cr.C. No. 1087 of 2019 dated 14.1.2019. Apart from that, the first statement of Mohammad Idris under Section 161 of the Cr.P.C. also does not disclose any commission of offence. The sale deed dated 10.3.2017 executed by Mohammad Idris is registered sale deed in which the other joint holders were also party. Similarly, sale deed dated 10.6.2017 has been freely executed by Mohammad Idris before the Registrar. An application was filed by Bushra Sharif under Section 156(3) of the Cr.P.C. against Mohammad Idris and others in which a compromise has taken place which indicates that

Mohammad Idris was healthy and capable of taking decisions all the time.

It is further submitted that after lodging of FIR on 17.1.2019 Mohammad Idris has been influenced by complainant – Ayesha Siddiqui because of which, he had given a repeat statement under Section 161 of the Cr.P.C. which cannot be taken into consideration, therefore, no case is made out against these applicants. Hence, it is prayed that the applicants in both the cases be benefited with grant of regular bail.

3. On the other hand, learned counsel for the State opposes the bail applications and the arguments submitted in this respect. It is submitted that according to the complaint, these applicants have taken benefit of the old-age and loss of memory of Mohammad Idris and have conspired to cheat him in a planned manner. The bank account statement of Mohammad Idris itself shows that the withdrawals were made from his account to make payment to him and even the charge for stamping was also made from his account which shows that not a single penny was paid to Mohammad Idris in all the transactions. It is alleged that according to the complaint made, the sale deed is manipulated and there is scanned signature of Mohammad Idris on the same, therefore, it is high level of conspiracy and cheating in this case. Hence, for these reasons, the applicants are not entitled for grant of regular bail.

4. Learned counsel for the Objectors - Mohammad Idris and Ayesha Siddiqui adopts the arguments advanced on behalf of the State counsel and submits that the applicants had taken benefit of forgetfulness of Mohammad Idris and also for the reason that he was short of memory and they have

defrauded him successfully for the reason that Mohammad Idris placed too-much faith on them. The bank account statement of Mohammad Idris is very clearly disclosed that not a single penny was paid to Mohammad Idris for the transactions that were made. The sale deed itself is manipulated in which at the time of execution of sale the details of payment were not mentioned which were added later on. This shows the collaboration of public officers as well in the said commission of offence of cheating. Revenue records and the Registry documents have also been forged. The applicants are influential persons who are capable of interfering in the investigation. Therefore, the case needs detailed investigation hence, for the purposes of the same, the application be rejected.

5. In reply, it is submitted on behalf of the applicants that no affidavit has been filed by Mohammad Idris in support of the objection whereas, he has filed affidavit in support of the application. The account statement itself shows that all the payment has been made to the vendor Mohammad Idris therefore, there is no substance in the objection made. Hence, it is prayed that the applications in both the cases are allowed.

6. Heard counsel for both the parties and perused the case diary.

7. According to the FIR lodged by complainant – Ayesha Siddiqui, it is alleged, the property that was received by her father Mohammad Idris in family partition was of worth Rs.50 crores. Mohammad Idris was old and he was short of memory. It is alleged that taking benefit of the age and loss of memory of Mohammad Idris, the said property has been purchased by

Afatab Siddiqui and Vindhyavasini Developers at a price of Rs.30 crores by committing the offences of forgery etc. It is alleged that the said 30 crores was withdrawn from the account of Mohammad Idris by the authorized person applicant No.1 - Afatab Siddiqui in M.Cr.C. No. 1087 of 2019 and some amount has been paid back in account of Mohammad Idris to show that the payment of consideration has been made. It is stated that Mohammad Idris was in clutches of Afatab Siddiqui and Arif Ahmed Qureshi who have taken benefit of the short memory of Mohammad Idris.

8. On perusal of the case-diary and all the documents filed alongwith the application, it appears that there is evidence present against the applicants regarding manipulation in bank account of Mohammad Idris and the manipulation in the sale deed which shows the involvement of the accused persons/ applicants in this case. It is a case of huge fraud and the investigation is still pending, therefore, under these circumstances, I do not find any ground to grant regular bail to these applicants.

9. Accordingly, the bail applications of the applicants in both the cases filed under Section 439 of the Cr.P.C. are rejected.

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi