

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 321 of 2019

- Meena Wadhwani Wd/o Late Ramchandra Wadhwani, Aged About 55 Years, R/o Infront of Radhaswami Satsang Bhawan Jarhabhata, Sindhi Colony, P. S. Civil Lines, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through The Officer In Charge, Police Station Civil Lines, District Bilaspur Chhattisgarh, District : Bilaspur, Chhattisgarh

---- Non-applicant

For Applicant – Shri U.K.S. Chandel, Advocate.

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

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12-03-2019

1. Apprehending arrest in connection with Crime No.657/2018, registered at Police Station – Civil Lines, Bilaspur, District Bilaspur, Chhattisgarh for offence punishable under Section 420/34 of the IPC, the applicant has preferred this application for grant of anticipatory bail. This is second application filed by the applicant under Section 438 of the Cr.P.C. before this Court. Her first application, MCRCA No.1058 of 2018 was dismissed as withdrawn on 18-09-2018, therefore, the same was not decided on merits.

2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against this applicant, as she was the title holder of the land in question, she had to enter into the agreement for sale which was negotiated by her son Rahul Wadhwani. The co-accused Rahul Wadhwani has surrendered before the Court below and he has been granted regular bail. As the agreement to sale could not be performed, because of which the complainant has been refunded Rs.5,00,000/- out of total amount Rs.10,00,000/- received from him and the remaining amount shall be refunded to him as soon as possible. It is also submitted that the applicant is

herself a cancer patient and she is unable to undergo rigor of arrest in detention. Hence, it is prayed that the application may be allowed.

3. Learned counsel for the State/non-applicant opposes the application submitting that even if it is assumed that the applicant has made refund of half of the amount received by her in advance to the complainant, but remaining amount is yet to be paid. Apart from that, there is evidence of commission of offence, therefore, the application may be rejected.

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

5. According to the complaint made by Janardan Gupta, he entered into an agreement for purchase of land belonging to this applicant and paid advance of Rs.10,00,000/-. Later on, he came to know that the land in question was mortgaged with Magma Finance Company. As the agreement could not be performed, the complainant asked for refund of the amount paid, which was not done. Hence, the FIR has been lodged.

6. Considered on the entire material present in the case diary. For the reason that some refund has been made to the complainant and also that co-accused has been benefited by regular bail by the Court below and considering the fact that the applicant herself is a cancer patient, 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, she shall be released on bail by the officer arresting her 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 herself 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 her by the said Court till disposal of the trial.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge