

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C.(A). No. 499 of 2019**

Nirbhay Jain, S/o. Nagendra Mohan Jain, Aged About 36 Years, R/o. 58/10, Nehru Nagar (East) Bhilai, Tahsil and District - Durg Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : Station House Officer, Police Station Utai, District - Durg Chhattisgarh.

---- Respondent

For Applicant	: Mr. Hamida Siddiqui with Rashmi Sen, Advocates
For Respondent/State	: Mr. Subhash Yadav, Dy. G.A.
For Objector	: Mr. Ganesh Burman, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****25/07/2019**

1. Apprehending arrest in connection with Crime No.444/2018, registered at Police Station – Utai, District – Durg (C.G.) for offence punishable under Section 420, 471, 467, 34 of the Indian Penal Code, the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in this case. No case is made out against the applicant regarding commission of offence as alleged. There is no material to make out a case against the applicant. The sale deeds which are alleged to have been executed at the behest of this applicant do not show the applicant as one of

the parties or even as attesting witness. The allegations that the applicant played a role in impersonation in execution of said sale deed is baseless. The applicant had some financial transaction with the complainant of this case, because of which, he has issued some cheques in favour of the complainant, which were dishonored by the Bank, regarding which a complaint under Section 138 of Negotiable Instrument Act is pending separately. The complainant is muscle-man, he has threatened and forced the applicant to sign some documents on 24.04.2018 regarding which a complaint was filed to the Police. Therefore, the applicant is needed to be protected. Therefore, it is prayed that the applicant may be granted 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 the applicant has very clearly acknowledged in writing after making confession regarding fraud committed by him and has agreed to repay all the amounts, which he has received from the complainant. Therefore, the culpability of the applicant is very much apparent, hence he is not entitled for grant of bail.
4. Counsel for the objector after adopting the arguments advanced by the learned State counsel submits that there is very clear allegation against this applicant that it was through his mediator-ship, the sale were executed by persons, who had impersonated the real title holders of the land. The act of the applicant was not limited to this extent, it was the applicant, who supplied the complainant with forged mutation papers, Rin Pustika etc., therefore, it is full fledged case of fraud, forgery and cheating, therefore, the applicant is not entitled to be released on anticipatory bail.

5. I have heard the learned counsel for the parties and perused the case diary and the documents placed on record.
6. According to the prosecution case, the applicant is engaged in real estate business. The complainant Atik Husain intended to purchase some land for construction of marriage ground on which, the applicant made proposition that land as per requirement of the complainant were available for sale. The complainant then made purchase of the said land by various sale deed between the year 2014-2015. Thereafter, the applicant gave inducement to the complainant that he should not go to the property till the date the project is materialized and also provided the complainant with Rin Pustika of the land purchased by him. The complainant later on when made enquiry, he found that the land owners of the said land denied executing any sale deed in favour of any person. Therefore, he found that execution of sale made by the persons impersonating as real owners. Thereafter, the complainant demanded from the applicant the amount of consideration, which was lost in the fraudulent sale, to which the applicant agreed and executed an agreement and also provided with cheques for payments. But the cheques have been dishonored by the Bank. Hence, FIR has been lodged.
7. Considered the submissions made and the contents of the case diary. Considering on the entire material present in the case diary and on perusal of the case diary it appears that the police has recorded statement of said land owners, who have clearly denied the execution of sale by them in favour of the complainant. The applicant was broker of this land transaction regarding which there is evidence, therefore, it seems that there is evidence to show that

a clear case is made out against the applicant, hence, there is no circumstance to satisfy the grant of anticipatory bail to the applicant, hence, for this reason, this Court is not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.

8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram