

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 554 of 2019

- Manmohan Mathur, S/o Late Shri M.L. Mathur, Aged About 57 Years, Occupation- Businessman, Director-Mohan Feeds And Chemical Pvt. Ltd. Raipur, R/o Kavita Nagar, Raipur, District Raipur Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station-City Kotwali, District-Raipur Chhattisgarh.

---- Respondent

For Applicant	:	Mr. Awath Tripathi, Advocate.
For Respondent/State	:	Mr. Arun Kumar Shukla, Govt. Advocate.
For Objector	:	Mr. Yogendra Pandey, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant
Order On Board

22/04/2019

1. This is second bail application filed by the applicant under Section 438 of the Code of Criminal Procedure. First application bearing MCRC(A) No.1708 of 2018 was dismissed as withdrawn vide order dated 21.2.2019.
2. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.137/2019 registered at Police Station-City Kotwali, District-Raipur(C.G.), for the offence punishable under Section 420/34 of the Indian Penal Code.
3. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. Infact brother of this applicant namely C.P. Mathur had borrowed some money from the complainant and as said C.P. Mathur left the country, therefore, this applicant has

given an undertaking to the complainant that he will repay borrowed amount to him and regarding which also entered into an agreement with the complainant which was drawn in the shape of agreement to sell landed property. Despite repayment of maximum portion of amount, a false FIR has been lodged by the complainant. The applicant himself has paid amount of Rs.10,05,000/- prior to the complainant in June, 2017, but the complainant has adopted this arm-twisting method to recover balance amount. It is a simple case of money transaction, hence, it is prayed that applicant be granted anticipatory bail.

4. Learned State Counsel opposes the bail application and the submissions made in this respect. It is submitted that it is clearly a case of transaction to sell in which, according to agreement executed, huge amount in advance has been received by the applicant himself and this fact was concealed from the complainant that the land was already mortgaged with bank. Therefore, application be rejected.
5. Learned counsel for the Objector after adopting arguments advanced by State counsel submitted that a false story has been built up by the counsel for applicant. The applicant entered into transaction of sale of land with the complainant without disclosing the fact that the land is already mortgaged with the bank.
6. Heard both the parties and perused the case diary.
7. FIR has been lodged by complainant G.K.Shrivastava that complainant was acquainted with C.M. Mathur, Director of Mohan Feeds & Chemical Private Ltd. and said C.M. Mathur gave inducement that company is owner of various lands and as the company is in need of money, therefore, he wanted to sell certain lands. Complainant

accepted said proposal and entered into an agreement with C.M. Mathur and also paid advance of Rs.12 lakhs. However, said C.M. Mathur instead of executing sale-deed in favour of complainant left the country after transferring rights of company in the name of this applicant. Another agreement was executed on 31.5.2015 with applicant and again advance amount of Rs.12,60,000/- was paid to the applicant but this applicant neither intended to execute sale-deed nor to refund advance amount. Later on, the complainant came to know that prior to the date of agreement to sell, the subject matter of agreement has been mortgaged with Central Bank of India, Branch-Bhabhadih, Raipur.

8. There is nothing to suggest in the case diary that there had been any money transaction between applicant or brother of applicant with the complainant. On the contrary looking to conduct of applicant in denying agreement to sell and also suppressing the fact that land was already mortgaged with bank, I am not inclined to allow this application.
9. Accordingly, this second anticipatory bail application is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge