

NAFR**HIGH COURT OF CHHATTISGARH, BILASPUR****M.CR.C.(A). No. 576 of 2019**

Harish Chhabariya, S/o. Late Kishan Das Chhabariya, Aged About 65 Years, R/o. House No. 31/248 Near CM House, P. S. Civil Line, Raipur, District Raipur Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh, Through : The Station House Officer, Police Station Civil Line Raipur, District Raipur Chhattisgarh.

---- Respondent

For Applicant	: Mr. Kamal Kishore Patel, Advocate
For Respondent/State	: Mr. Aaditya Sharma, Panel Lawyer
For Objector	: Mr. Pushpendra Kumar Patel, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****24/04/2019**

1. Apprehending arrest in connection with Crime No.150/2019, registered at Police Station – Civil Line, Raipur District – Raipur (C.G.) for offence punishable under Section 420, 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 on the basis of the material present in the case diary. The FIR is belated by six years and apart from that there is no documentary evidence of any financial transaction or agreement to sale between the applicant and the complainant. Further the complainant Bhuri Bai has no capacity to make payment of Rs.50.00 lakhs, therefore, it is totally concocted case. Further it is submitted that applicant is 65 years old man and he is

suffering from Cancer because of which, the police itself has not arrested him looking to his condition. Hence, for this reason, it is prayed that the applicant may be enlarged on 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 it is a case of huge fraud, therefore, the application be rejected.
4. Counsel for the objector after adopting the argument advanced by the learned counsel for the State submits that on the basis of the statement given by the complainant, the case is made out. Further issuance of cheque for payment in favour of the complainant, itself establishes that there had been financial transaction as well as agreement for sale, therefore, the applicant does not deserves to be enlarged 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 FIR Lodged, this applicant and one co-accused entered into an oral agreement with the complainant Bhuri Bai for sale of 20 acres of land situated in Mandirhasaud for consideration of Rs.56.00 lakhs and obtained Rs.50.00 lakhs in advance. As the agreement was not honoured by the applicant and co-accused, therefore, the complainant demanded refund of the advance money instead of which this applicant and co-accused gave her two cheques of Rs.15.00 lakhs each, promising to make the payment of remaining amount later on. When the complainant presented the cheques for payment in her bank, the same were dishonoured and it was informed that the account of which the cheques were issued were already closed.

7. Considered the submissions made and the contents of the case diary. The FIR has been lodged after six years and there is no written documents of transaction between the parties. One thing which needs consideration is this that according to the documents submitted the applicant is a cancer patient and is undergoing treatment for the same, therefore, taking into consideration the same, this Court is 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 allowed.
9. 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.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram