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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 660 of 2019**

Anand Murthy Tamrakar S/o Late Sukhram Tamrakar Aged About 56 Years
R/o Tamerpara, Police Station Durg, Tehsil And District Durg Chhattisgarh.,
District : Durg, Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through The Station House Officer, Police Station
Mohan Nagar, District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent**And****M.Cr.C.(A) No. 663 Of 2019**

Sheshnarayan Tamrakar S/o Dhruv Kumar Tamrakar Aged About 36 Years
R/o Tamerpara, Police Station Durg, Tehsil And District Durg Chhattisgarh.,
District : Durg, Chhattisgarh.

---- Applicant**Vs**

State Of Chhattisgarh Through The Station House Officer, Police Station
Mohan Nagar, District Durg Chhattisgarh., District : Durg, Chhattisgarh.

---- Respondent

For the Applicants : Shri Sunil Pillai, Advocate.
For the Respondent/State : Shri Arun Shukla, G.A.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****16.05.2019**

Heard.

- Both these applications are being decided by this common order as they arise from the same incident. These are the first bail applications under Section 438 of Cr.P.C. filed by the applicants for grant of anticipatory bail, who are apprehending arrest in connection with Crime No.134 of 2019 registered at Police Station – Mohan Nagar, District Durg, for the offence punishable under Section 420, 34 of the Indian Penal Code.

2. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case. The complainant has brought a totally false case against the applicants. The fact is that applicant – Anand Murthy Tamrakar entered into an agreement with the complainant on 21.1.2013 for purchase of house property, the complainant has received an advance of Rs.5,00,000/- from applicant - Anand Murthy Tamrakar and the complainant did not execute the sale deed. Applicant - Anand Murthy Tamrakar has filed a civil suit before the Civil Court for specific performance of contract in the year 2014. The complainant has given appearance in that case and contested the same. At the stage of defence evidence, the complainant filed an affidavit under Order 18 Rule 4 of the Code of Civil Procedure making a statement that no such agreement has taken place between him and applicant - Anand Murthy Tamrakar and thereafter, to give support to his stand in the defence of the civil case, he has lodged a false FIR on 8.4.2019 after passing of about more than 6 years from the date the agreement had taken place. Therefore, the case against the applicants is totally concocted. Hence, it is prayed that the applicants in both the cases are entitled for grant of anticipatory bail.

3. On the other hand, learned counsel for the State opposes the bail application and the submissions made in this respect. It is submitted that the complainant has made a categorical statement against the applicants regarding fraudulent agreement which was executed between the parties and apart from Rs.1,50,000/- no other money has been paid to the complainant. Hence, the applications be rejected.

4. Heard counsel for both the parties and perused the case diary.
5. On perusal of the case-diary and also the documents filed alongwith the application, it is found that there is a civil suit pending between applicant – Anand Murthy Tamrakar and the complainant since the year 2014 in which the complainant is being represented and he is contesting the suit and that the FIR has been lodged after passing of almost six years, hence, for these reasons, I feel inclined to grant anticipatory bail to all the applicants in both the cases.
6. Accordingly, the bail applications filed by the applicants in both the cases under Section 438 of the Cr.P.C. are allowed.
7. It is directed that in the event of arrest of the applicants in both the cases in connection with the aforesaid offence, they shall be released on bail by the Officer arresting them 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. They shall also abide by the following conditions:
 - (i) that the applicants shall make themselves available for interrogation before the Investigating Officer as and when required;
 - (ii) that the applicants 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 them from disclosing such facts to the Court or to any police officer;
 - (iii) that the applicants shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

- (iv) that the applicants shall appear before the trial Court on each and every date given to them by the said Court till disposal of the trial.'

Sd/-

(Rajendra Chandra Singh Samant)
Judge

Nimmi