

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 895 of 2019

- Shiv Kumar Shrivastava, S/o Raju Shrivastava, Aged About 33 Years, R/o Laxmi Nagar, Pachpedinaka, Police-Station-Tikrapara, Tahsil Raipur, Civil & Revenue District-Raipur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Acting Through Officer, In Charge, Police Station Civil Line Raipur, Civil & Revenue District-Raipur, Chhattisgarh.

---- Respondent

For Applicant : Mr. Lukesh Kumar Mishra, Advocate.

For Respondent : Mr. Subhash Yadav, Panel Lawyer.

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

04/07/2019

1. The applicant has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.110/2019 registered at Police Station-Civil Line, Raipur, District–Raipur(C.G.), for the offence punishable under Sections 420, 467, 468, 34 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. Applicant is the power of attorney holder of main accused Kapil Patel. The applicant entered into an agreement with complainant Jyoti Sunane and execute sale-deed in her favor in respect of lands belonging to said Kapil Patel. However, as

the land could not be mutated in favor of the complainant and it is alleged that the land has been sold in excess to the land actually under the ownership of said Kapil Patel, therefore, the complaint has been filed. This applicant had never any intention to cheat the complainant . Applicant and complainant both have entered into an agreement according to which the complainant has agreed that she does not want to prosecute this applicant. Copy of agreement has been filed along with bail application. Hence, it is prayed that he may be enlarged on anticipatory bail.

3. Learned State counsel opposes bail application and submissions made in this respect. It is submitted that it is a case of execution of fraudulent sale deed by this applicant in favor of the complainant, hence, the application be rejected.
4. Heard both the parties and perused the case diary.
5. According to prosecution case, on 20.8.2011 this applicant in his capacity as power of attorney holder of co-accused Kapil Patel had executed a sale-deed and received consideration of Rs.25 lakhs from complainant Jyoti Sunane. Subsequently, the complainant came to know that the land was actually in possession and recorded in the name of one Puniram Sahu & Smt. Sudha Kedar and thereafter she lodged FIR alleging fraudulent sale.
6. Considering the entire material present in the case diary and also considering agreement that has taken place between the complainant and this applicant, which has also been referred to in rejection order of Court below and also order of this Court passed in MCRC No.2356 of 2019 on 16.4.2019, which shows that this applicant has made refund of consideration amount to the complainant. Therefore, after overall

consideration, I am of this view that this is a fit case where the applicant should be enlarged on anticipatory bail.

7. Accordingly, the anticipatory bail application is allowed and 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 his executing a personal bond in the 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.

Sd/-
(Rajendra Chandra Singh Samant)
Judge