

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

M.Cr.C.(A.) No. 1017 of 2019

- Prakash Kalash S/o Sukhdev Singh Kalash Aged About 55 Years R/o Gurumukh Veela, V.I.P. Road, Puraina, Raipur, District Raipur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station Civil Lines, Raipur District Raipur Chhattisgarh

---- Non-applicant

For Applicant	: Mr. Y.C. Sharma, Advocate.
For State/respondent	: Mr. Devendra Pratap Singh, Dy.A.G.
For Objector	: Mr. K. Rohan, Advocate.
For Complainant	: Mr. Kishore Bhaduri, Sr. Advocate along with Mr. Sunny Agrawal, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-10-2019

Heard.

1. Apprehending arrest in connection with Crime No.206/2018, registered at Police Station– Civil Lines, District- Raipur, Chhattisgarh, for the offence punishable under Section 420/34 of the I.P.C., the applicant has preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in this case. The applicant has no connection with the transaction that has taken place. The brother-in-law of this applicant- Vikram Rana and wife Kanchan Kalash along with Punam Singh Rajput, constituted a firm styled as Vardhman Infrastructure. The business of the firm was purchase and sale of land. The business of this firm was looked after by its partners in which this applicant had no participation. One of such property was sold by Kanchan Kalash to

Chhattisgarh Real Estate at a consideration price of Rs.56,70,000/- and another such property was sold to Sharad Goyal at a consideration price of Rs.25,05,000/- in the year 2012. Subsequently, in the year 2015, Vikram Rana, the partner of firm, came to know that the subject matter of the above sale-deed was mortgaged in favour of Punjab National Bank by the directors of M/s Good Luck Petroleum Company Pvt. Ltd. by making use of forged signature of Vikram Rana. Therefore, Vikram Rana has lodged a complaint against Punam Singh Rajput and Good Luck Petroleum Company Pvt. Ltd. which has been registered as Crime No.97/2015 in Police Station Gole Bazar, Raipur. Subsequent to which, false F.I.R. has been lodged against this applicant.

3. Vikram Rana has also filed a Civil Suit against Punam Singh Rajput and others praying for declaration that the mortgage created by the Punam Singh Rajput and others in the disputed property is illegal along with other relatives. Defendant No.3 had in W.S. admitted that the plaintiff Vikram Rana had not signed the mortgage papers. Vikram Rana has also filed application before the Debt Recovery Tribunal which is pending. Thereafter, a complaint was also filed by Punam Singh Rajput against Vikram Rana and others but the same has been compromised. Apart from that Punam Singh Rajput, who was shown as one of the partners of Vardhman Infrastructure, was in fact a salaried employee of Subhash Sharma. There is nothing present in the material of charge-sheet that this applicant has committed any offence. Therefore, prayed that his application be allowed.
4. Learned counsel for the State opposes the application and submits that wife of this applicant is the partner of Vardhman Infrastructure Ltd. and it is this applicant himself who has actively negotiated sale of lands to the

complainants which was later on discovered to be fraudulent sale resulting in wrongful losses to the complainants. Therefore, only for the reason that he is not a partner of the firm concerned, he cannot get any benefit. Further, there is an evidence present against the applicant, therefore, he is not entitled for grant of anticipatory bail.

5. Mr. K. Rohan, learned counsel for the objector- Sharad Goyal submits that he is one of the purchasers in the fraudulent sale made in this case. The father of objector was approached by this applicant and thereafter the negotiation was made for purchase of land, after this applicant gave assurances that the land is free from encumbrances and believing in his words, the whole consideration price of Rs.25,05,000/- was paid and sale-deed was executed. Subsequently, the objector came to know that the land purchased by him was a security for loan obtained from Punjab National Bank and there had been a proceeding under SARFAESI Act, 2002. Therefore, whole fraud has been played by this applicant. Hence, he is not entitled for grant of anticipatory bail.
6. Learned counsel for the complainant, Trilochan Singh, opposes the application and submissions made in this respect. It is submitted that there had been cordial relation with this applicant and because of the inducement given by this applicant, the purchase of property was made for which consideration price Rs.56,70,000/- was paid after the assurances given by the applicant. It was subsequently discovered that property was secured for loan and there had been proceeding under SARFAESI Act. Hence, the applicant is not entitled for grant of anticipatory bail.
7. Heard learned counsel for both the parties and perused the documents present.

8. According to prosecution case, the complainant, Trilochan Singh Saluja has lodged F.I.R. that this applicant, who was a good acquaintance made a proposal for sale of land the partnership firm M/s Vardhman Infrastructure in which his brother-in-law and wife were partners. The original title deeds were not shown and it was informed by the applicant that the title deeds are missing. However, the sale-deeds were executed and the complainant paid the whole consideration price. The property was purchased in the name of M/s Chhattisgarh Real Estate Company. There was a clear statement made by the vendors that the property was free from encumbrances. Later on the complainant came to know about the mortgage of the property from the notice published by Punjab National Bank regarding the auction of the sale property. Hence, this case.
9. In the investigation made so far and according to the submissions made by the witnesses, there is clear allegation that all the transactions were initiated by this applicant and all the assurances and inducements were given by him, although he is not a party to the sale-deed but even then he is connected with the partners of the said firm which is alleged to have executed the fraudulent sale-deed. Therefore, I am of this opinion that it is not a fit case for grant of anticipatory bail to the applicant.
10. Accordingly, the application filed under Section 438 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge