

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 995 of 2019

1. Vikas Kumar Jain S/o Late R.K. Jain, Aged About 47 Years, R/o 22, Prem Pushp, Jal Vihar Colony, Raipur Chhattisgarh., District : Raipur, Chhattisgarh
2. Ashish Kumar Jain S/o Late R.K. Jain, Aged About 44 Years, R/o 22, Prem Pushp, Jal Vihar Colony, Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicants

Versus

- State of Chhattisgarh, through Station House Officer, Police Station Gole Bazar, Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Non-applicant

For Applicants – Shri Rajeev Shrivastava, Advocate.

For Non-applicant – Shri Aditya Sharma, Panel Lawyer.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

08-08-2019

1. Apprehending arrest in connection with Crime No.82/2018, registered at Police Station – Gole Bazar, Raipur, Chhattisgarh for offence punishable under Section 420, 34 of the IPC, the applicants have preferred this application for grant of anticipatory bail.
2. It is submitted by learned counsel for the applicants that the applicants have been falsely implicated in this case. The applicants are builder and their business has failed, that is why they have not been able to perform their part of agreement which had taken place with the persons concerned. The complainant is also one of the party to such agreement. In the matter of complainant in this case, the complainant had to pay further amount for taking over possession, that is why the complainant was not handed over the possession of the flat. Apart from that, there had never been intention of the applicants to cheat the complainant. The complainant has still entitlement to sue the applicants for recovery of the amount. Therefore, it is prayed that the applicant may be benefited with grant of anticipatory bail.
3. Learned counsel for the State/non-applicant opposes the application

submitting that according to the statement given by the complainant, it is clear case of fraud and cheating by the applicants. Therefore, the applications may be rejected.

4. Heard learned counsel for the parties and perused the case diary.

5. According to the prosecution case, the applicants entered into an agreement with complainant Amit Chandrakar for sale of one flat in Khushi Tower, regarding which a consideration amount of Rs.8,21,000/- was paid by the complainant to the applicants. Later on, it is alleged in the complaint that neither the project was completed nor the possession of the flat was transferred and further no repayment of the amount advanced to the applicants was made to the complainant.

6. After considering all the facts and circumstances of this case, I feel inclined to allow this application.

7. Accordingly, the anticipatory bail application is allowed. It is directed that in the event of arrest of these applicants in connection with the aforesaid offence, they shall be released on bail by the officer arresting them on each of them 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. These applicants shall also abide by the following conditions :

- (i) that they shall make themselves available for interrogation before the investigating officer as and when required;
- (ii) that they 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 they shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that they shall appear before the trial Court on each and every

date given to them by the said Court till disposal of the trial.

8. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Aadil