

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1024 of 2019

1. Shashikant Agrawal, S/o Sitaram Aged About 52 Years R/o New Khursipar, Bhilai, District- Durg, Chhattisgarh.
2. Smt. Uma Agrawal, W/o Late Laxmikant Agrawal Aged About 49 Years R/o New Khursipar, Bhilai, District- Durg, Chhattisgarh.
3. Smt. Sangeeta Agrawal, W/o Shashikant Agrawal Aged About 44 Years R/o New Khursipar, Bhilai, District- Durg, Chhattisgarh.
4. Smt. Gayatri Agrawal, W/o Shri Rajnikant Agrawal Aged About 39 Years R/o New Khursipar, Bhilai, District- Durg, Chhattisgarh.

---- Applicants

Versus

- State Of Chhattisgarh Through Station House Officer, Police Station- Kumhari, District- Durg, Chhattisgarh.

---- Respondent

For Applicants	:	Mr. T.K Tiwari, Advocate.
For Respondent/State	:	Mr. Lav Sharma, Panel Lawyer.
For Objector	:	Mr. Ishan Verma, Advocate.

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

02/08/2019

1. This is the first bail application of this applicant. He has preferred this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.165/2017 registered at Police Station- Kumhari, District-Durg(C.G.), for the offence punishable under Section 406/34 of the Indian Penal Code.
2. Learned counsel for applicant submits that applicant is innocent and has been falsely implicated in this case. The facts of the case are these that on 6.7.2009 Jagdish Sahu executed a sale-deed in respect

of his property in favour of these applicants regarding which all consideration was paid in cash. However, there is mention of some cheques in the sale-deed, which were never presented by the vendor in bank for encashment. After the purchase, the lands have been mutated in the names of purchasers. The vendor has raised objection before the mutation authority that the sale consideration was not paid, however, the said objection has been rejected. Apart from that, the SIT has also conducted an inquiry on the complaint made by Jagdish Sahu and given a finding that it is a case of civil nature, therefore, no case is made out against the applicants. In these circumstances, it is prayed that they may be granted anticipatory bail.

3. Learned State Counsel opposes the bail application and the submissions made in this respect. It is submitted that it is a clear case of fraud and cheating. There is evidence present that this applicant gave inducement to the complainant that he will save him from the *Land Mafia* and on this inducement, the complainant executed the sale-deeds in the name of applicants without receiving any consideration. The cheques mentioned in the sale-deed were never handed over to the complainant. There had been a parallel agreement between the parties that applicant No.1 shall execute return sale-deed in favor of the complainant after passing of some time, which he has not done and now the applicants are claiming themselves to be the owners of the lands in question, therefore, none of the applicants is entitled for grant of anticipatory bail.
4. Learned counsel for the Objector after adopting arguments advanced by State counsel submitted that the applicant No.1 had given inducement to the complainant and promised that he will save his

land from the *Land Mafia* and due to apprehension of his land being grabbed, the complainant transferred his land in favor of the applicants without receiving any consideration and subsequent to which the claim is made by the applicants, which clearly shows that they have acted in a fraudulent manner, therefore, applicants are not entitled for grant of anticipatory bail.

5. In reply, it is submitted by the learned counsel for applicant that FIR lodged in the case is delayed by 6 years and that the applicants have proof that they have paid all the consideration to the complainant, therefore, application be allowed.
6. Heard both the parties and perused the case diary.
7. Complainant Jagdish Sahu has filed a complaint which was inquired and on the basis of which FIR has been lodged. It was found in inquiry that the applicants have got transferred about **19** acre of land belonging to complainant Jagdish Sahu by giving inducement that they will save his land from land mafia, who may grab his land. No consideration was found to be paid to the complainant. The cheques that are mentioned in the sale-deeds were never presented in the bank for encashment regarding which report has been obtained which further confirmed that no consideration was paid to the complainant. Hence, this case.
8. After considering on all the facts and circumstances of the case and material present in the case diary, I am of this view that all the transactions have been taken place between applicant No.1 and the complainant. Applicant No.1 has not been able to present any proof regarding any payment made by him to the complainant, therefore, I am not inclined to grant anticipatory bail to applicant No.1. However,

applicants No.2, 3 & 4 are women and they have not directly made any negotiation with the complainant, hence, for this reason, I feel inclined to allow application of applicants No.2 to 4.

9. Accordingly, anticipatory bail application of applicant No.1 is rejected.

10. However, anticipatory bail application of applicant No.2 to 4 are allowed and it is directed that in the event of arrest of these applicants in connection with aforesaid offence, they shall be released on bail by the officer arresting them on their executing a personal bond in the sum of Rs.25,000/- each 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 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/their 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