

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1065 of 2019**

1. Khilawan Tamboli S/o Shri Kamal Tamboli Aged About 36 Years R/o Ward No. 18, Kurmipara, Mahasamund, Thana Tahsil And District- Mahasamund, Chhattisgarh.
2. Mukesh Tamboli S/o Shri Kamal Tamboli Aged About 35 Years R/o Ward No. 18, Kurmipara, Mahasamund, Thana Tahsil And District- Mahasamund, Chhattisgarh.
3. Hukumchand Tamboli S/o Shri Kamal Tamboli Aged About 33 Years R/o Ward No. 18, Kurmipara, Mahasamund, Thana Tahsil And District- Mahasamund, Chhattisgarh.

---- Applicants**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station- Mahasamund, Civil and Revenue District- Mahasamund, Chhattisgarh.

---- Respondent

For Applicants	: Shri Sunil Sahu, Advocate.
For Respondent/State	: Shri Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board**09/08/2019**

1. The Applicants are apprehending their arrest through first bail application filed under Section 438 of Cr.P.C. in connection with Crime No. 239/2019 registered at Police Station Mahasamund, District Mahasamund, (C.G.). for the offence punishable under Section 420/34 of IPC.
2. As per the prosecution story, one Arjundas Waswani has purchased a land of Khasra No. 532/1, area 0.336 Hectare through a registered sale deed, dated 23.09.2017, from the present Applicants and others and the application for mutation was filed before the Court of Tehsildar, which has been rejected. Therefore, an appeal is filed before the SDO Revenue and vide order dated 06.03.2019, SDO

passed the order for cancellation of said sale deed and further directed to lodge a report against the seller as the land in question was acquired by Water Resources Department in land acquisition case No. 12-A-82/1991-92 and the amount of compensation has already been paid, therefore, their title is not remain in the land in question.

3. Learned Counsel appearing for the Applicants submits that the Applicants are innocent and have been falsely implicated in the present case. He further submits that, land in question was acquired by Irrigation Department in the year 1991-92 and this fact was not known to the Applicants as they were minor at that time and they were unaware of the land acquisition proceedings. Also, their names have been shown in the revenue records, therefore, they signed the power of attorney to execute the sale deed and they did not have any concern with the said sale deed. It is further submitted that, said land was sold to one Arjundas Waswani and on the complaint made by him, one separate offence under Section 420/34 of IPC has been registered against the present Applicants and others in which co-accused namely Kamal Tamboli and Pawan Tamboli have been granted anticipatory bail by this Court and Applicants were also granted anticipatory bail from the Court of Sessions. Again for the same land, offence has been registered against the present Applicants on the basis of order passed by Revenue Authority. It is further submitted that, *prima facie*, no offence under Section 420 of IPC is made out against the present Applicants. There is total a civil/revenue dispute between the parties and instead of filing the suit or initiate the revenue proceedings, Complainant lodged the report. Thus, it is prayed that, present Applicants may be extended the benefit of anticipatory bail.
4. Learned Counsel appearing for the State opposes the bail application and submits that according to the material contained in the case diary, *prima facie*, the case alleged against the present Applicants are made out. Therefore, they do not deserve to be granted anticipatory bail.

5. I have heard learned Counsel appearing for the parties and perused the material available with due care.
6. Taking into consideration the submissions put-forth on behalf of the parties and further considering the fact that land acquisition was initiated in the year 1991-92 and mutation was not done in favour of Irrigation Department and for the same land, on the basis of complaint made by one Arjundas Waswani, a separate offence under Section 420/34 of IPC has been registered in which present Applicants have already been granted anticipatory, thus, I am inclined to extend the benefit of anticipatory bail to the present Applicants.
7. Accordingly, the bail application is allowed.
8. It is directed that in the event of arrest of the Applicants in connection with the aforesaid crime, they shall be released on anticipatory bail on each of them furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. They shall also abide by all the following terms and conditions :
 - (i) 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 from disclosing such fact to the Court,
 - (ii) They shall not act in any manner which will be prejudicial to fair and expeditious trial, and
 - (iii) They shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
Judge