

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1358 of 2019**

- Shailendra Singh Bais S/o Late Shri Natthu Jalam Singh Bais Aged About 52 Years R/o Brigade Alta Mount, B-602, Kudlahal, Main Road, Mahadevpura, Bangalore, Karnataka.

---- Applicant**Versus**

- State of Chhattisgarh Through Police Station Kotwali, Durg, Chhattisgarh.

---- Respondent

For Applicant	: Shri Sunil Otwani, Advocate.
For Respondent/State	: Ms. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board**13/11/2019**

1. The applicant has preferred this first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 575/2019 registered at Police Station Kotwali, District – Durg, (C.G.) for the offence punishable under Sections 420, 467, 468, 471 & 34 of I.P.C.
2. Facts of the case in brief is that, present applicant is the son of complainant Ganga Devi. Father of the applicant i.e. Nathu Singh was the owner of the house MIG C/457, who died on 20.11.2006. On 22.06.2019 report has been lodged by the complainant alleging therein that present Applicant with the help of other co-accused persons prepared a forged *sahmati patra* dated 27.09.2008 by tracing the signatures of complainant and her daughters from the blank papers and sold the said property to other co-accused persons in December, 2015. On the basis of the above background, offence has been registered.

3. Learned Counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated in the present case by the complainant. *Prima facie*, no offence can be made out against present applicant. He further submits that present case is of civil nature. On 21.07.2016, complainant Ganga Devi filed an application under Section 125 of Cr.P.C. for grant of maintenance against present applicant and in the said proceedings, complainant was examined and she categorically admitted the fact that after the death of her husband, she and her daughters have given consent for transfer of ownership of house in the name of applicant. Thus, it is not established that applicant has fraudulently obtained permission from complainant and his sisters for transfer of ownership of house in his name. It is further submitted that, complainant had also made a complaint in the year 2017, in which inquiry was conducted and no case was made against present Applicant. Vide memo dated 12.07.2017 of S.H.O., Durg, annexed as AD-13, it is mentioned that after the sale of house, applicant has given Rs. 9,00,000/- to her mother. It is further submitted that co-accused Nitesh Chandrakar has already been granted anticipatory bail vide order dated 22.08.2019 passed in MCRCA No. 1201/2019. With regard to other co-accused person i.e. Ramesh Tiwari, vide order dated 09.07.2019 passed in WP(Cr.) No. 420/2019, it has been directed that no coercive steps shall be taken against Ramesh Tiwari. Looking to the above, it is prayed that present Applicant may also be granted benefit of anticipatory bail.
4. Learned Counsel appearing for the State opposes the bail application.
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, considering the fact and circumstances of the case and particularly considering the fact that incident is of year 2008 and F.I.R. has been lodged after a gap of 11 years i.e. in the year 2019, also in the application filed under Section 125 of Cr.P.C. by the complainant,

she has admitted the fact that she and her daughters have given consent for transfer of ownership of house in the name of applicant, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present Applicant.

7. Accordingly, the bail application is allowed.

8. It is directed that in the event of arrest of the Applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on 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. He shall also abide by all the following terms and conditions :

- (i) He 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) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) He 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