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HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No. 1366 of 2018**

Smt. Mamta Agrawal W/o Vimal Agrawal Aged About 50 Years R/o Plot No.377, Christian College Road, Kailash Nagar, Bhilai, Tahsil And District Durg Chhattisgarh, District : Durg, Chhattisgarh.

---- Applicant**Versus**

1. Santosh Kumar Patro S/o M. R. Patro Aged About 47 Years R/o B-151, Amrapali, Vananchal City, Police Station Jamul Bhilai, Tahsil And District Durg Chhattisgarh, District : Durg, Chhattisgarh
2. Smt. Madhusmita Patro W/o Santosh Kumar Patro Aged About 40 Years R/o B-151, Amrapali, Vananchal City, Police Station Jamul Bhilai, Tahsil And District Durg Chhattisgarh, District : Durg, Chhattisgarh

---- Respondents**And****M.Cr.C.(A) No. 1379 Of 2018**

Vimal Agrawal S/o Late Madanlal Agrawal Aged About 52 Years R/o Plot No. 377. Christian Collage Raod, Kailash Nagar Bhilai Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant**Vs**

1. Santosh Kumar Patro S/o M.R. Patro Aged About 47 Years R/o B- 151 Amrapali Vananchal City , Police Station Jamul Bhilai, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh.
2. Smt. Madhusmita Patro W/o Santosh Kumar Patro Aged About 40 Years R/o B- 151, Amrapali Vananchal City , Police Station Jamul Bhilai, Tahsil And District Durg Chhattisgarh., District : Durg, Chhattisgarh

---- Respondents

For the Applicants	:	Shri T.K. Jha, Advocate.
For the Respondents	:	Shri R. Pradhan, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant**ORDER****04.02.2019**

Heard.

1. Both these applications are being decided by this common order as they arise from the same incident. These are the first bail applications under

Section 438 of Cr.P.C. filed by the applicants for grant of anticipatory bail, who are apprehending arrest in connection with Complaint Case No.32206 of 2018 pending before the Court of Learned Judicial Magistrate First Class, Durg, District Durg, for the offence punishable under Sections 452, 294, 448, 506 and 392/ 34 of the Indian Penal Code.

2. Learned counsel for the applicants submits that the applicants have been falsely implicated in this case. The fact is that the applicants and the complainants have a dispute regarding the possession of land which is a case of civil nature. The applicants themselves have their claim over the land bearing Khasra Nos. 375 and 376 admeasuring land 4800 sq.ft. which they have purchased by the registered sale deed. The complainants have themselves purchased lands but their Khasra numbers are different i.e. 373 and 374. The demarcation report of the land is in favour of the applicants. Therefore, the allegation regarding the commission of offence made by the complainants in their complaint is totally false and baseless. Hence, it is prayed that the applicants in both the cases are entitled for grant of anticipatory bail.

3. Learned counsel for the complainants opposes the submissions made in this respect. It is submitted that the complaint filed against the applicants is full of substance and the complainants have given statement accordingly which shows that the applicants are responsible for the commission of offence as alleged in the complaint. The sale deed of the applicants shows purchase of vacant land had taken place whereas, the spot inspection report shows the presence of construction and the complainants claimed that they have constructed over the disputed land from which they have been

dispossessed by the applicants, therefore, *prima facie*, there is a case against the applicants in both the cases. Hence, the applicants are not entitled for grant of bail.

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

5. According to the complaint, a complaint has been filed by the respondents against the applicants in both the cases making allegation that the complainants had raised construction over the plot purchased by them and wherein they are in occupation of the shop and go-down. It is alleged that on 16.5.2017, the applicants have unauthorizedly occupied the godown of the complainants. Hence, this case.

6. On perusal of the record of the complaint case and the evidence present in the case-diary, it appears that there is dispute regarding the land between both the parties which shows that there is a glimpse of civil nature in this case. However, the applicants' claim shall be examined by the trial Court in this respect and looking to the facts that the applicants have also put up a claim on the basis of sale deed of the land purchased by them, I feel inclined to grant anticipatory bail to all the applicants in both the cases.

7. Accordingly, the bail applications filed by the applicants in both the cases under Section 438 of the Cr.P.C. are allowed.

8. It is directed that in the event of arrest of the applicants in both the cases in connection with the aforesaid offence, they shall be released on bail by the Officer arresting them on 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. They 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 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