

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1535 of 2018

1. Smt. Randeep Kour Gujral W/o Mahendrapal Singh Gujral, Aged About 60 Years, R/o Civil Line, Raigarh, District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh
2. Mahendrapal Singh Gujral S/o Late Balwant Singh Gujral, Aged About 62 Years, R/o Civil Line, Raigarh, District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh

---- Applicants

Versus

1. State of Chhattisgarh Through The District Magistrate Raigarh, District Raigarh Chhattisgarh, District : Raigarh, Chhattisgarh
2. Shivshankar Awasthi S/o Devi Prasad Awasthi, Aged About 75 Years, R/o Near Rani Talab Mandir, Rewa, Tahsil and District Rewa M.P., District : Rewa, Madhya Pradesh

---- Non-applicant

For Applicants – Smt. Hamida Siddique, Advocate.

For Non-applicant No.1/State – Shri Avinash K. Mishra, Panel Lawyer

For Non-applicant No.2 – Shri Aditya Tiwari, Advocate.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

12-07-2019

1. Apprehending arrest in connection with Complaint Case No.43/10, pending before Judicial Magistrate First Class Raigarh, Chhattisgarh for offence punishable under Section 420, 467, 468, 471, 472 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. No offence of commission of cheating and forgery is made out against these applicants. Applicant No.1 is bonafide purchaser of the disputed land. All the allegations, that are in the complaint, are directed against co-accused Shrawan Kumar Mishra. A civil suit has also been filed by non-applicant No.2/complainant against Shrawan Kumar Mishra and others in which the applicant No.1 is a party. The civil suit has been decreed in favour of non-applicant No.2 and the sale deed in favour of applicant No.1 has been cancelled. The said decree has been challenged regarding which one

first appeal, i.e. First Appeal No.542/2017 is pending before this Court and order of interim relief has been passed on 07-12-2017. Apparently, these applicants were not a party to any commission of offence of cheating and forgery which is reflected from facts of the case itself. Therefore, it is prayed that these applicants may be benefited with grant of anticipatory bail.

3. Learned counsel for the State/non-applicant No.1 formally opposes the application.

4. Learned counsel for non-applicant No.2 submits that these applicants have conspired with main accused Shrawan Kumar Mishra as a result of which the land on which the complainant/non-applicant No.2 had entitlement was fraudulently mutated in favour of co-accused Shrawan Kumar Mishra and then sold out to these applicants. Therefore, these applicants are not entitled for grant of anticipatory bail.

5. Heard learned counsel for the parties and perused the documents.

6. A complaint has been filed against these applicants and co-accused Shrawan Kumar Mishra making allegation that with respect to the land in dispute complainant Shivshankar had entitlement for title. It is alleged that co-accused Shrawan Kumar Mishra in collaboration with the revenue officials got the property mutated in his name in the official records and by making use of the same he has disposed off the property in favour of these applicants. Hence, this case.

7. After considering that the dispute between the parties is also pending on the civil side and the finding in the judgment of Civil Court is mainly directed against co-accused Shrawan Kumar Mishra, I feel inclined to allow this application.

8. 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.

9. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge