

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1750 of 2018

- Sunanda Biswas, S/o Shri Satya Biswas, aged about 50 Years, R/o 3/40, Civil Line, Govind Nagar, Raipur, Chhattisgarh.

---- Applicant

Versus

- State of Chhattisgarh Through P.S. Civil Line, Raipur, Chhattisgarh, District : Raipur, Chhattisgarh

---- Respondent

&

MCRCA No. 1717 of 2018

- Karuna Bhattacharya, S/o Late S.K. Bhattacharya, aged about 50 Years, R/o Debar Steel City, Avanti Vihar, Police-Station-Telibandha , Raipur Chhattisgarh., District : Raipur, Chhattisgarh

---- Applicant

Versus

1. Bobby Lucas S/o L. Lucas, aged about 44 Years, R/o New Shanti Nagar, Shankar Nagar Raipur Chhattisgarh.
2. State of Chhattisgarh, Through Police Station Civil Line, District-Raipur Chhattisgarh.

---- Respondents

For Applicants	:	Mr. Kishore Bhaduri, Advocate in M.Cr.C.(A) No.1750/2018. Mr. C. Jayant K. Rao, Advocate in M.Cr.C.(A) No.1717/18.
For Objector	:	Mr. Dashrath Kushwaha & Mr. Pushpendra Kumar Patel, Advocates.
For Respondent/State:		Mr. H.S. Ahluwalia, Dy. Adv. General.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

06/02/2019

1. Since the above two bail applications arise out of the same chain of circumstances, hence, they are being disposed of by this common order.
2. Applicant in MCRCA No.1750/2018 has preferred this application for grant of anticipatory bail as he apprehends his arrest in connection with Crime No.334103180737/2018 registered at Police Station-Civil Line, District – Bilaspur (C.G.), for the offence punishable under Section 420 of Indian Penal Code (for short 'IPC').
3. Applicant in MCRCA No.1717/2018 has preferred this application for grant of anticipatory bail as he apprehends his arrest in connection with Crime No.737/2018 registered at Police Station-Civil Lines, District – Raipur (C.G.), for the offence punishable under Section 420/34 of Indian Penal Code (for short 'IPC').
4. Learned counsel for the applicants submits that applicants are innocent and have been falsely implicated in this case. It is submitted that applicants work as 'Broker' and mediate for transaction of landed property, therefore, they used to enter into contracts with the intended purchasers of property on behalf of land owners. The transaction between applicant Sunanda Vishwas and the complainant was concluded between the year 2008 & 2013 and it was purely commercial in nature. The documents regarding the said transaction have been destroyed due to fire in the premises of the applicant in the year 2013. Prior to that, a complaint was filed by the complainant against the applicants before the Special Investigation Cell, which was subsequently settled. The applicant Sunanda Vishwas is a political

figure and therefore, he is being targeted. On 8.1.2015 complainant again filed a written complaint with the police on which no action was taken as the police were of the opinion that it was a case of civil nature.

5. Learned counsel on behalf of applicant Karuna Bhattacharya, it is submitted that he had worked only as Mediator between main accused and the complainant but he has not given any assurance or received any payment. On the basis of these submissions, it is prayed that both the applicants be granted anticipatory bail.
6. Learned State counsel opposes the application and submits that the allegation is very much clear that both the applicants have cheated the complainant by entering into an agreement for sale of land, knowing well that none of the applicants had right to transfer the same and thereby received huge amount as consideration which has not been refunded. Therefore, applications are liable to be rejected.
7. Learned counsel for objector adopts the arguments advanced on behalf of State and submits that applicant Sunanda Vishwas, who was not the owner of the land, claiming himself to be the title holder entered into agreement for sale of land in question, obtained huge amount of Rs. 35 lakhs in advance, but thereafter neither executed the sale deed in favour of the complainant nor refunded the advance amount to him. There are all possibilities of tampering with evidence and influencing the witnesses of the case. Therefore, application be rejected.
8. Heard both the parties and perused the case diary.
9. On 15.10.2015 complainant Bobby Lucas filed an application under Section 156(3) of CrPC alleging that applicant Sunanda Vishwas showing himself to be the landlord of the subject matter, entered into

an agreement for sale with him and received an advance Rs.35 lakhs. However, when the sale-deed was not registered in favour of the complainant, he made inquiries and found that applicant Sunanda Vishwas was not the title holder of the land in agreement. The complainant tried to get back the advance paid to applicant Sunanda Vishwas and when he failed to get back the advance amount, he filed present complaint before the competent Court and on the basis of the orders passed by the concerned Court, FIR has been lodged.

10. As per police investigation, the land regarding which agreement has taken place is recorded in the name of Jairam and Shital Kumar and there exists no agreement between Sunanda Vishwas and Jairam and Shital Kumar. It is also found that applicant Karuna Bhattacharya had intervened to settle the dispute, gave assurance regarding refund of amount and even some cheques were also given to the complainant which promised for the refund, but, on presentation, the said cheques were returned dishonored.

11. Considering on all the material, this Court is of the view that no extraordinary case is made out in favour of applicant Sunanda Vishwas entitling him for grant of anticipatory bail. However, considering the fact that applicant Karuna Bhattacharya is neither a party to the agreement in question nor a beneficiary, therefore, I am inclined to grant him anticipatory bail.

12. MCRCA No.1750/2018 of Sunanda Vishwas is rejected.

13. Accordingly, M.Cr.C.(A) No.1717/2018 filed on behalf of applicant Karuna Bhattacharya is allowed and it is directed that in the event of his arrest in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on his furnishing a personal bond in

the sum of Rs.25,000/- 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 applicant shall make herself available for interrogation before the investigating officer as and when required;
- (ii) that the applicant 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 the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and
- (iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

(Rajendra Chandra Singh Samant)
Judge