

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 58 of 2019

1. Naveen Kausal S/o Late Shri O.P. Kausal, Aged About 48 Years, R/o B-1/22, Surya Vihar, Phase-02, Police Station- Supela, Bhilai, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
2. M. Paul W/o Late Shri P.K.C. Paul, Aged About 76 Years, R/o Plot No. 13, Sahyog Marg, Vidyut Nagar, Bhilai, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
3. Shrimati Seema Philip W/o Sachin Philip, Aged About 50 Years, R/o Quater No.135A, Phase-02, Surya Vihar, Bhilai, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Applicants

Versus

1. State of Chhattisgarh Through Station House Officer, Police Station- Supela, Bhilai, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
2. Kuljeet Singh S/o Viliyaam Singh, Aged About 49 Years, R/o MIG 246, Aamdi Nagar, Hudco, Bhilai, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Non-applicants

MCRCA No. 71 of 2019

1. J. Korma Rao S/o Late Shri J P Rao, Aged About 47 Years, R/o Sector 2, Street No.-15-B, Block 16/C, Police Station- Bhilai Bhatti, Tahsil And District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Applicant

Versus

1. Kuljeet Singh S/o Waliyagh Singh, Aged About 49 Years, R/o MIG 246, Amdi Nagar, Hudco, Bhilai, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh
2. State Of Chhattisgarh Through The Station House Officer, Supela, Bhilai, District- Durg, Chhattisgarh., District : Durg, Chhattisgarh

---- Non-applicant

For Applicants – Shri Kishore Bhaduri and Shri Pawan Kesharwani, Advocates
(in MCRCA 58/2019),

Shri B.P. Singh, Advocate (in MCRCA No.71/2019). ,

For Non-applicant/State – Shri Arun Kumar Shukla, Govt. Advocate.

Shri Santosh Kumar Gautam and Shri C.P. Soni, Advocate
for the objector.

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order on Board

18-03-2019

1. As both these applications arise out of the same complaint case, they are being decided by this common order.

2. The applicants in both these applications are apprehending their arrest in connection with Complaint Case No.33684/2018, registered by JMFC Durg, for offence punishable under Section 420, 467, 468, 471, 120B, 34 of the IPC, hence, they have preferred these applications for grant of anticipatory bail.

3. It is submitted by learned counsel for applicants Naveen Kausal, M. Paul & Shrimati Seema Philip (applicants in MCRCA No.58/2019) that these applicants have been falsely implicated in this case. No case is made out against them. The transaction between applicant No.1 Naveen Kausal and applicant No.3 Shrimati Seema Philip had been bonafide. Applicant No.3 was power of attorney holder of Mansha Kasture and Anand Kasture on the date of the deed, i.e., 11-10-2013, on the basis of which authority she executed the sale deed. The complainant/respondent No.2 Kuljeet Singh has also filed a civil suit praying for cancellation of sale deed aforementioned, which is pending in the civil court. The applicant No.1 is bonafide purchaser, as he is purchaser on consideration. These applicants have also been benefited with interim protection by this Court. Therefore, no case is made out against these applicants. Hence, it is prayed that these applicants may be benefited with grant of anticipatory bail.

4. It is submitted by learned counsel for applicant J. Korma Rao (applicant in MCRCA No.71/2019) that he has been only a witness to the power of attorney and the sale deed, therefore, he is not a party to commission of alleged crime, if any. Hence, it is prayed that he may be granted anticipatory bail.

5. Learned counsel for the objector submits that the original title holders of the property, Mansha Kasture and Anand Kasture entered into an oral agreement for sale of the property in their possession and received the amount of about 42 lacs from him in advance. The sale deed could not be executed by them because they stated that the property is mortgaged with Life Insurance

Corporation. It is submitted that the power of attorney holder Applicant No.3 Shrimiati Seema Philip had knowledge of the earlier agreement and that the property was mortgaged and she has knowingly transferred the property in favour of applicant No.1 Naveen Kausal by making false statement in the sale deed that the property is free from all encumbrance and it is also submitted that applicant No.2 M. Paul had also full knowledge of the same, therefore, none of these applicants is entitled for grant of anticipatory bail.

6. Learned counsel for the State makes formal objection as it is a complaint case.

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

8. Kuljeet Singh (Non-applicant No.2 in MCRCA No.58/2019 and non-applicant No.1 in MCRCA No.71/2019) has filed a private complaint making allegation that despite the oral agreement between him and the title holders of the property, for which advance money has passed from him to the title holders, all these applicants having knowledge of the earlier event deliberately entered into transaction of sale to defraud and cheat the complainant.

9. Considered on all the submissions made by both the parties and also all the documents that are filed along with the applications, which includes the statement given by the complainant before the Court below and also all the order sheets of the proceeding in the complaint case. It is not denied that there had been power of attorney existing in favour of applicant No.3 in MCRCA No.58/2019 and the same was used in execution of the sale deed in favour of applicant No.1 Naveen Kausal in MCRCA No.58/2019. It is also considered that applicant J. Korma Rao in MCRCA No.71/2019 had been a witness to the power of attorney and sale deed, there would be a requirement of strict proof in this case that all these applicants had knowledge of earlier agreement and it was a fact that the property was mortgaged with the LIC for which evidence is still required to be produced in the complaint case. Therefore, after due

consideration, I am of this opinion that it is a fit case for grant of anticipatory bail to the applicants in both the applications.

10. Consequently, both these anticipatory bail applications are 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.

11. Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Judge