

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 541 of 2020

1. Smt. Sudha Tiwari W/o Shree S.C. Tiwari Aged About 49 Years R/o Village Dadarkhurd, Parsuram Nagar, Tahsil- Korba, District- Korba, Chhattisgarh.
2. Dr. Suresh Chand Tiwari S/o Late Lalan Tiwari Aged About 53 Years R/o Village Dadarkhurd, Parsuram Nagar, Tahsil Korba, District- Korba, Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Police Station- Korba, Kotwali, District- Korba, Chhattisgarh.

3. ---- Respondent

For Applicants	: Mr. Anshul Tiwari, Advocate.
For Respondent/State	: Mr. Ghanshyam Patel, G.A.
For Objector	: Mr. N.K. Shukla, Senior Advocate along with Mr. Shailendra Shukla, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

29/06/2020

1. The matter is heard through video conferencing.
2. The applicants have filed this bail application for grant of anticipatory bail under Section 438 of the Cr.P.C. as they are apprehending their arrest in connection with crime no. 81/2020, registered at Police Station Korba Kotwali, Distt. Korba, Chhattisgarh for the offence punishable under Section 420 and 120-B of the IPC.
3. In this case, Applicant No. 1 is the wife of Applicant No. 2. As per prosecution story, on 22.03.2013, the applicants had entered into a registered agreement to sale for land with the complainant bearing Kh. No. 529/3d/2, area 0.04 Acre (4 Dicmil) and till date neither the sale deed has been executed in favor of the complainant nor the amount of Rs. 4,89,000/- has been refunded. Thereby, they have committed a crime of cheating. On 14.02.2020, on the basis of said background, the

complainant lodged report against the applicants. On the basis of said complaint, offence has been registered.

4. Learned counsel appearing on behalf of the applicants submits that the applicants are innocent and have been falsely implicated in the present case. He further submits that the matter is of civil nature. Prima facie no case can be made out against the applicants. The Counsel further submits that originally land in dispute was purchased by the applicants from the land owners namely Jagarmati, Bhukhil Bai and Sukhin Bai in the year 2008. Thereafter, the land was mutated in their name. Thereafter, vide agreement dated 22.03.2013, they agreed to sale the land to the complainant, meanwhile, due to some dispute, original land owners filed a civil suit against each of others and status-quo order was passed vide order dated 22.08.2015 by the concerned Civil Court. For this reason, the applicants were not able to execute the said sale deed to the complainant. The Counsel further submits that in the year 2017 also, a report was lodged by the complainant in this regard and concealing this fact, the complainant again lodged the present complaint against the applicants. The Counsel lastly submits that since the matter is of civil nature and no offence can be made out against the applicants, therefore, they may be granted benefit of anticipatory bail.
5. Per contra, learned counsel appearing on behalf of the State opposes the bail application.
6. Learned counsel appearing on behalf of the Objector also opposes the bail application and submit that virtually the applicants herein purchased a land measuring about 1 acre only, but they have executed agreement to sale of land with 28 persons for 1.75 acres. Thus, they have cheated not only the complainant as well as other 27 persons. Hence, it is prayed that he may not be granted benefit of anticipatory bail.
7. I have heard learned Counsel for both parties.
8. Considering the facts and circumstances of the case, evidence collected by the prosecution, arguments advanced by both the counsel appearing for the parties and further considering the fact that agreement was executed in the year 2013 and till date the complainant neither gave any legal notice to the applicants for specific performance for return of money nor filed any civil suit and after 7 years of the incident, he lodged the FIR

against the applicants, further considering the nature of the case, without further commenting on merits of the case, in my considered opinion, it is a fit case for grant anticipatory bail to the applicants.

9. Accordingly, the anticipatory bail application is allowed.

10. It is directed that in the event of arrest, the applicants shall be released on bail on each of them furnishing a personal bond for a sum of Rs. 25,000/- with one solvent surety for the like sum to the satisfaction of the officer arresting them and they shall abide by all the following terms and conditions:-

- I. That accused/applicants shall made themselves available for interrogation before the concerned Investigating Officer as and when required;
- II. The accused/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 him/her from disclosing such facts to the Court or to any police officer;
- III. The accused/applicants shall not act, in any manner which will be prejudicial to fair and expeditious trial; and
- IV. 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/-

(Arvind Singh Chandel)
Judge