

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 644 of 2020

1. Dr. Umeshwar Nath Pandey S/o Late Vishnu Sewak Pandey Aged About 64 Years Doctor, Ambikapur, District Surguja Chhattisgarh. R/o Maharana Pratap Ward No. 6, Kedarpur, Ambikapur, District Surguja Chhattisgarh.
2. Sarvesh Pandey S/o Dr. Umeshwar Nath Pandey Aged About 36 Years Lab Technician, P.G. College, Ambikapur, District Surguja Chhattisgarh. R/o Maharana Pratap Ward No. 6, Kedarpur, Ambikapur, District Surguja Chhattisgarh.
3. Smt. Rachna Pandey W/o Sarvesh Pandey Aged About 34 Years Lecturer, Higher Secondary School, Sakalo, District Surguja Chhattisgarh. R/o Maharana Pratap Ward No. 6, Kedarpur, Ambikapur, District Surguja Chhattisgarh.

---- Applicants

Versus

State Of Chhattisgarh Through Incharge Kotwali, Police Station Ambikapur, District Surguja Chhattisgarh.

---- Respondent

WITH

MCRCA No. 730 of 2020

Ramadhar Jaiswal S/o Late Mohar Lal Jaiswal Aged About 65 Years R/o Ramanujganj Road Ambikapur, Police Station And Tehsil Ambikapur, District Surguja Chhattisgarh.

---- Applicant

Versus

State Of Chhattisgarh Through Incharge Kotwali, Police Station Ambikapur District Surguja Chhattisgarh.

---- Respondent

WITH

MCRCA No. 778 of 2020

Amit Mishra S/o Late Neetiraj Mishra Aged About 30 Years R/o Kedarpur, Ring Road, Ambikapur, District Surguja, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through- Station House Officer, P.S. Ambikapur,
District Surguja, Chhattisgarh

---- Respondent

For Applicants (In MCRCA No.644/2020) : Mr. Manoj Paranjpe, Advocate.	
For Applicant (In MCRCA No.730/2020) : Mr. Sanjay Agrawal, Advocate.	
For Applicant (In MCRCA No.778/2020) : Mr. C. Jayant K. Rao, Advocate.	
For Respondent/State : Ms. Hamida Siddiqui, Dy. A.G.	
For Objector : Mr. A.K. Prasad, Advocate.	

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board

06/08/2020

1. The matter is heard through Video Conferencing.
2. Since, all the cases are arising out of same crime number therefore, they are being decided by this common order.
3. The Applicants have preferred this first bail application under Section 438 of Cr.P.C. for grant of anticipatory bail as they are apprehending their arrest in connection with Crime No. 246/2020, registered at Police Station–Ambikapur, District: Surguja (C.G.) for the offence punishable under Section 420, 467, 468, 34 and 120-B of IPC.
4. As per the prosecution story, complainant Alok Jaiswal S/o Kanilal Jaiswal made a report against all the Applicants inter alia on the allegations that, the land bearing Khasra No.4804/3 is belonging to his mother namely Kanklata Jaiswal and she is the owner of the said land. It is alleged that all the Applicants (In MCRCA No.644/2020) with the other co-accused persons namely Siddharth Mishra & Amit Mishra entered into an agreement with Ramadhar for purchase of the land bearing Khasra No.4804/3 by showing the same as 4804/4. It is further alleged that the Applicants by showing change in the boundaries of Khasra No.4804/4 entered into an agreement with Ramadhar and thereby all the Applicants committed an offence of cheating and forgery. On the basis of said, offence has been registered.

5. Learned Counsel appearing on behalf of the Applicants submits that the Applicants are innocent and have been falsely implicated in the case. He submits that if the entire case of the prosecution will be accepted as it is, it occurs that there is no offence of cheating and Prima Facie the matter is of pure civil dispute and has been given the colour of criminal offence. He further submits that, the land in dispute bearing Khasra No.4804/4 area 0.08 acre originally belongs to Kanilal Jaiswal who is the father of the complainant. The father of the complainant sold the land to Moharlal Jaiswal who is the father of Ramadhar Jaiswal vide registered sale deed dated 07.03.1969 and the possession of the said land bearing Khasra No.4804/4 was handed over to Moharlal Jaiswal. After division of the said land and after mutation the same was recorded as Khasra No.4804/4 as per (Annexure A/2). The possession was also of the Moharlal Jaiswal and after his death, his legal heirs namely Ramadhar and Harkesh had inherited the property by virtue of general succession and the names have been already recorded in the revenue records. On the basis of revenue record, Ramadhar is the owner of that land. Being the owner of that land, he entered into an agreement to sell the said plot to one Rachna Pandey vide agreement dated 29.04.2015. Despite of due execution of the agreement to sale and payment of earned money Ramadhar was not executing the sale-deed in favour of Rachna Pandey, therefore, the Civil Suit was filed for specific performance of contract. During the pendency of the civil suit, the matter was compromised and a compromise deed was executed on 26.06.2019 and on the basis of compromise, a decree was passed on 25.02.2020 which has attained its finality. As per the family arrangement, a sale deed is executed in favour of Applicant No.01 (In MCRCA No.644/2020) as per (Annexure A/7). Neither the registered sale deed nor the compromise decree has been challenged by the complainant. A map attached with the sale-deed dated 07.03.1969 and the boundaries shown in the said sale-deed of the Applicant No.01 (In MCRCA No.644/2020) are one and the same. Boundaries shown in the civil suit as well as the boundaries in the compromise deed and sale-deed dated 11.03.2020 are one and the same therefore, there cannot be any question of change of boundaries. Learned counsel

lastly submits that there is no material evidence available on record on the basis of which any criminal case arises, therefore Prima Facie no case is made out against the Applicants, therefore, it is prayed that the present Applicants may be granted benefit of anticipatory bail.

6. Per contra, learned Counsel appearing on behalf of the State as well as for the Objector opposes the bail application.
7. I have heard learned Counsel for the parties.
8. Considering the facts and circumstances of the case and arguments adduced by counsel for the parties and after going through the entire material evidence, in my view, Prima Facie, the matter is of civil dispute, therefore, without further commenting on merits of the case, I am inclined to release the Applicants on bail.
9. Accordingly, the anticipatory bail applications are 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 in the sum of Rs. 25,000/- with one 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 the 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