

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A). No. 805 of 2020**

Kirti Chand Pradhan, S/o. Late S.K. Pradhan, aged about 52 years, R/o. Asha Ram Bapu Nagar, Jamul, Police Station Jamul, District Durg Chhattisgarh.

----Applicant**Versus**

1. State of Chhattisgarh, through : the District Magistrate, Durg, District -Durg, Chhattisgarh.
2. Smt. Amita Sahu, W/o. Shri Tulshi Ram Sahu, aged about 58 years, R/o. Village and Post Thaur, Tahsil and District Durg Chhattisgarh, Present R/o. Street No. E.M.R. Quarter No. 4-C, Sector- 4, Bhilai, Tahsil and District Durg Chhattisgarh.

---- Respondents

For Applicant	: Mr. Uttam Pandey, Advocate
For Respondent/State	: Mr. Devendra Pratap Singh, Dy.A.G.
For Complainant	: Mr. Anand Shukla, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant**Order On Board****02/11/2020**

1. Apprehending arrest in connection with Complaint Case No. 1746/2016, pending before the Judicial Magistrate First Class, Durg, District – Durg (C.G.) for offence punishable under Section 420, 467, 468, 471, 120-B/34 of the Indian Penal Code, the applicant has preferred this bail application for grant of anticipatory bail. One of the earlier bail application M.Cr.C.(A) No.621/2017 was dismissed as withdrawn by order dated 13.12.2017 and liberty

was sought to surrender before the Court concerned and without complying with the same, the third bail application has been filed.

2. It is submitted by the learned counsel for the applicant, that the applicant has been falsely implicated in this case. It is submitted that the dispute is regarding the sale of residential plot to the complainant. The complainant although claims that the plot is non-existing, but according to the applicant the plot is existing. It is the dispute of civil nature. The applicant intends to make payment of all the amount received from the complainant in the sale, on condition that she re-transfer the property in favour of the applicant. It is also submitted that the applicant has already paid some amount i.e. Rs.8,40,000/- to the complainant from his own pocket to protect his reputation. Therefore, the intention of the applicant is bonafide. Hence, it is prayed that the applicant may be enlarged on anticipatory bail.
3. The respondent No.1/State is a formal party.
4. Counsel for the respondent No.2/complainant opposes the bail application and the submission made on behalf of the applicant side. It is submitted that the statement made by the applicant on affidavit is totally false. The amount of Rs.8,00,000/- was paid to the respondent No.2 by this applicant prior to the filing of complaint. The applicant has been party to the fraud, in which, the property belonging to some other were shown to the respondent No.2 and the same was transferred to the respondent No.2 by one Pooja Dongre, who is also a fictitious person, therefore, it is a case of high level of fraud. The applicant had earlier filed a revision petition in the Sessions Court challenging the order of Magistrate taking cognizance in the complaint, which has been dismissed. Thereafter,

the applicant has also filed Cr.M.P. No.678/2018 under Section 482 of Cr.P.C. praying for quashment of complaint proceeding, which has also been dismissed. Hence, the applicant is only buying time and he has no intention to provide any remedy to the respondent No.2. Hence, it is prayed that the application be rejected.

5. I have heard the learned counsel for the parties and perused the the documents placed on record.
6. Complaint has been filed by the respondent No.2 alleging against the applicant and others that she was shown a piece of land by the applicant and others, which did not belong to them. After negotiation for sale, the same land was transferred to the respondent No.2 by a sale deed for sale consideration of Rs.12,80,000/-. The sale deed was executed by one Pooja Dongre. The respondent No.2, then came to know that the land sold to her belongs to somebody else and also that the executant of the sale deed is also a fictitious person, then she has fled a complaint. The learned trial Court has taken cognizance in complaint case for trial in offence under Section 420, 467, 468, 471 and 120-B of the Indian Penal Code and has issued the process for appearance of this applicant and others.
7. Considered on the submissions and the facts of the case. The proposition made on behalf of the applicant for compromise is totally on differing footing. The same proposition can be made before the trial Court also and the offences which are compoundable may be compounded, if the, law permits the same. Such intended proposition can not be made a ground for grant of anticipatory bail. It is rebutted from the respondent side, that the claim regarding the proposition for making refund to the

complainant is false. Considering on the merits of the case, this Court is not inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant.

8. Accordingly, the anticipatory bail application filed under Section 438 of Cr.P.C. is rejected.

Sd/-
(Rajendra Chandra Singh Samant)
Judge

Balram