

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1062 of 2020**

- Kausar Begam W/o Abdul Mujib Khan Aged About 55 Years R/o Near Circuit House, Bhagyashree Colony, Amravati Camp, Amravati District Amravati Maharashtra, Halmukam Saraswati Nagar, Kota Raipur District Raipur Chhattisgarh. **---- Applicant**

Versus

- State Of Chhattisgarh Through Station House Officer, P.S. Saraswati Nagar, District Raipur Chhattisgarh. **---- Respondent**

For Applicant	:	Mr. Ishan Verma,	Advocate.
For State	:	Mrs. Hamida Siddiqui,	Dy.A.G.

Hon'ble Shri Justice Manindra Mohan Shrivastava

Order on Board

16-12-2020

Heard.

1. The applicant is apprehending her arrest in connection with Crime No.43 of 2020 registered at police station– Saraswatinagar, District Raipur (C.G.) for alleged commission of offence under Sections 420, 120-B, 467, 468, 471 read with Section 34 of I.P.C.
2. Prosecution case is that the landed property belongs to late Moiz-ud-din and Sala-Ud-din, Minhajuddin, Ajamuddin, Sahid Munir, and Nafis Uddin are his sons and Kausar Begam is the daughter of late Moiz-ud-din, who is the present applicant. This property did not belong to Sala-Ud-din, but jointly belonged to all of them, Sala-Ud-din, who was falsely claiming to be entitled to sell the joint property on the basis of fabricated power of attorney dated 12-10-1983, sold the property by registered sale deed in favour of purchaser on 16-6-2014. It is alleged that Sala-ud-din in connivance with the

applicant has disposed off joint property which belongs to aforementioned family members. It is further alleged that one of joint holders namely Ajamuddin died whereas the other holder, namely, Sahid Munir was missing since 1995 and Nafis Uddin is mentally sick.

3. Learned counsel for the applicant would submit that registration of FIR against the applicant is outcome of false allegation by land mafia who wanted to purchase the joint property land of the applicant and her brothers, but it was not agreed, then complaint was lodged in Police Station on 18-5-2020. Thereafter, in order to counter allegation and create pressure, FIR was lodged on 28-5-2020. He would further argue that present applicant is sister and there is no dispute of power of attorney of 1983 by herself and others, therefore, the so far as present applicant is concerned, she is being unnecessarily harassed because she has sold her share in the property. The sale deed has been executed by Sala-Uddin, who is brother of the present applicant, as far as her share is concerned. It is further submitted that complainant Mohd. Israr is not a family member, but he is making false allegation without any basis.
4. On the other hand, learned counsel for the State opposes and submits that prima facie contents of FIR lodged on 28-5-2020 by Mohd. Israr show that a forged power of attorney has been prepared in favour of Sala-Uddin and on the basis of that power of attorney, he sold the joint family property of Moiz-ud-din and his sons Sala-Ud-din, Minhajuddin, Ajamuddin, Sahid Munir, and Nafis Uddin and daughter Kausar Begam and no such power of attorney

has ever been executed by any of them in favour of Sala-Uddin. She would next submit that the matter was investigated and Sultan Begam, wife of Sahid Munir stated that her husband was missing since long and according to her, no power of attorney has been executed by her husband since 1983. It is further submitted that in ongoing investigation, office of Registrar, Raipur, by letter dated 28-5-2020, in response to memo dated 21-5-2020 of SHO, Police Station Saraswatingar, has stated that presently no details of power of attorney is available in the office of Registrar. Therefore, it is submitted that, prima facie, a case is made out against the present applicant because she is also alleged to be involved with her brother Sala-Uddin in selling the joint family property.

5. On prima facie consideration, it is found that the sale deed has been executed in the year 2014 by Sala-Uddin claiming himself to be the power of attorney holder of Moiz-ud-din, Minhajuddin, Ajamuddin, Sahid Munir, Nafis Uddin and also Kausar Begam, who is present applicant. The applicant has placed on record a copy of registered power of attorney dated 12-10-1983 which is said to be executed by the aforesaid persons. The FIR shows that the allegation is levelled in the FIR on the basis that a forged power of attorney was prepared on 8-3-2014. It is also found that in the present case it is not alleged that prior to execution of power of attorney in the year 1983 Sahid Munir had died. In the FIR it has been stated that Sahid Munir was missing since 1995. Further, it is not a case of prosecution that the other share holder namely Nafis Uddin has been declared mentally sick by the certificate issued by the Doctor. The sale deed is not in respect of share of Ajim Uddin.

Moreover, the sale deed has been executed by Sala-Uddin. By the sale deed, the applicant's property has also been sold. The applicant has not executed sale deed along with Sala-Uddin. In fact, by the sale deed the applicant is also divested from the joint property held by all the brothers and sisters. The prosecution document does not show that so far any statement of the witnesses of the power of attorney has been recorded,

6. Considering the aforesaid material and circumstances, I am of the opinion that present is a fit case, where the applicant should be protected by benefit of anticipatory bail, particularly when the allegations are that the complainants are the persons outside the family and they are disputing the family arrangements and without there being any support by any family members, who are not party to power of attorney, the bail application is accordingly allowed.
7. Accordingly, it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, she shall be released on bail on her furnishing a personal bond in the sum of Rs.25,000/- along with one local surety for the like amount to the satisfaction of the arresting officer and the applicant shall abide by all the following terms and conditions -

- (i) that the applicant shall make herself available for interrogation by a Police Officer as and when required;
- (ii) that she 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 them from disclosing such facts to the Court or to any Police Officer.

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge

Raju