

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 898 of 2019**

- Jitendra Singh Gill S/o D.S. Gill Aged About 38 Years R/o Qr. No. 410, Street No. 1/A, Near Kohka Chowk, Shantinagar, Bhilai, Durg, Chhattisgarh.

---- Applicant**Versus**

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

---- Respondent

For Applicant	: Shri Pushpendra Singh Baghel, Advocate.
For Respondent/State	: Ms. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board**11/02/2020**

1. The applicant has preferred this first bail application filed under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 308/2019 registered at Police Station Kotwali, District Durg, (C.G.) for offence punishable under Section 420 of I.P.C.
2. Facts of the case, in brief, is that on 28.03.2019 a written complaint has been filed by the complainant stating therein that on 28.02.2012, applicant entered into a sale agreement with the complainant for a land bearing Khasra No. 65/1, Rakba 0.58 Hectare, situated at Village Junvani, Tehsil and District – Durg. The said land is registered in the name of one Smt. Bhawani Rao. The sale consideration was agreed upon by the parties at the rate of Rs. 350/- per square foot and complainant as a token amount gave Rs. 7 Lakhs in cash and Rs. 11 Lakhs through a cheque to the applicant. It is further agreed upon by

both the parties that rest of the sale consideration amount would be given at the time of Registry. After some time, when the complainant asked the present applicant to execute the sale deed, he by some or other reason delayed the Registry. Thereafter, it came to the knowledge of the complainant that the said subject land is registered in the name of some other person i.e. Bhawani Rao. It is alleged that at the time of agreement dated 28.02.2012, forged documents were produced in the name of Bhawani Rao, and thereafter, agreement was executed. On the basis of the said, offence has been registered.

3. Learned Counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that, virtually, on 27.02.2012, applicant entered into an agreement to sale with the actual owner of the property i.e. Smt. Bhawani Rao. The said deal was done by one Ramkrishna Reddy who is the common friend of the present applicant and Smt. Bhawani Rao's husband and he is also witness in the agreement executed on 27.02.2012. It is further submitted that one Younis Khan, who is a property dealer, entered into an agreement with the present applicant for sale on behalf of the complainant. He further submits that applicant did not know Smt. Bhawani Rao personally. It was Ramkrishna Reddy who introduced the applicant to Bhawani Rao . Also, the payment of amount of Rs. 7 Lakhs and Rs. 11 Lakhs has been made to Bhawani Rao, though Rs. 4 Lakhs has been transferred to the applicant as brokerage amount from the account of Bhawani Rao. After some time, present applicant came into knowledge that someone else impersonating as the actual owner i.e.

Bhawani Rao has withdrawn the money and applicant himself was unaware of this fact. Virtually, it is the applicant with whom the fraud has been done. When applicant came to know about this fact, then he sent a registered notice to Bhawani Rao through his legal Counsel, annexed as Annexure A-2. Thus, fraud has been done with the applicant. *Prima facie*, no case is made out against present applicant. Looking to the above, it is prayed that applicant may be released on anticipatory bail.

4. Learned Counsel appearing for the State opposes the bail application and submits that one account has been opened in the name of Bhawani Rao and Rs. 4 Lakhs has been transferred to the applicant from the said account. Thus, offence is made out against present applicant. Looking to the allegation made against applicant, anticipatory bail application of the applicant should be rejected.
5. I have heard learned Counsel appearing for the parties and perused the material available with due care.
6. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence collected by the prosecution and particularly considering the fact that agreement to sale was executed in the year 2012 and F.I.R. has been lodged in the year 2019 by the complainant, and there is no direct evidence which shows that the amount was directly paid to the applicant, therefore, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.

7. Accordingly, the anticipatory bail application is allowed.

8. It is directed that in the event of arrest of the applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on his furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. He shall also abide by all the following terms and conditions :

- (i) He 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 fact to the Court,
- (ii) He shall not act in any manner which may be prejudicial to fair and expeditious trial, and
- (iii) He 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