

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No.1212 of 2020**

- Smt. Sudha Tiwari, W/o Dr. Suresh Chand Tiwari (Wrongly Mentioned As D/o Suresh Chand Tiwari In Annex P/1.) Aged About 55 Years R/o Parsuram, Dadar (Pandit Ravishankar Shukla Nagar), Police Chowki Manikpur Kotwali Korba Tahsil And District Korba Chhattisgarh., District : Korba, Chhattisgarh

----- Petitioner**Versus**

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

---- Respondent

For Applicant	:	Shri Anshul Tiwari, Advocate
For Respondent/State	:	Smt. Hamida Siddiqui, Dy.AG
For Objector	:	Dr. N. K. Shukla, Senior Advocate with Shri Arijit Tiwari, Advocate

Single Bench: Hon'ble Shri Justice Manindra Mohan Shrivastava**Order On Board****10/12/2020**

Heard.

1. The applicant has preferred this application under Section 438 of Cr.P.C., apprehending her arrest in connection with Crime No.613/2020, registered at Police Station Police Chowki Manikpur, Korba Kotwali, District Korba for alleged commission of offence under Section 420 & 120-B of IPC.
2. Case of the prosecution is that the applicant cheated and defrauded the complainant in as much as the applicant receiving Rs.5 Lakh by way of cash and cheque from the complainant, executed registered sale deed in favour of the complainant on 07-12-2013 in respect of land belonging to the applicant situated in different Khasra Numbers, but later on, the accused was not cooperating towards mutation of land of the purchaser/complainant for long time. Ultimately, the complainant applied for mutation and when order of mutation was passed in favour of the complainant, the applicant raised an objection by filing an appeal. Thereafter, the Revenue Authority directed spot

inspection, so that, subsequent proceedings of certification, after mutation order, be completed, then, the applicant's appeal was rejected on the basis of spot inspection that there did not exist any such land, on which, the possession could be given to the purchaser. By the aforesaid act, the purchaser/complainant was defrauded and cheated by the applicant. According to the case of the prosecution, the applicant kept on selling her property through her husband as Power of Attorney Holder to large number of purchaser and when the applicant sold out land to the complainant/purchaser, no land was left at the spot.

3. Learned counsel for the applicant submits that the present is a dispute of civil nature, as the applicant had purchased the land from erstwhile owner and dispute had arisen amongst them in respect of land in Khasra No.529/3Ka/2 {New Number 905/2}, wherein certain orders were also passed in favour of the complainant. It is next submitted that the property, which was sold to the complainant/purchaser through registered sale deed, was duly recorded in the name of the applicant in all revenue records including B-1, Khasra Number, Nazri Naksha and also there existed No objection certificate from Diversion Department. It is next submitted that the revenue proceedings, in which, it has been reported that there is no land available as there were certain dispute regarding demarcation of land including the aforesaid khasra number, which relates to sale of land between the parties, which is not a case of cheating. It is next submitted that a report was lodged by the complainant/purchaser earlier, raising similar allegations against the applicant, which led the applicant to file anticipatory bail application before this Court i.e. M.Cr.C.(A)Nos.541 & 544 of 2020, in which, the applicant, against similar allegations, was protected by anticipatory bail. It is also submitted that the transaction is of year 2013 and report has been lodged in the year 2020. It is lastly submitted that the co-accused, husband of the applicant has been granted regular bail by the Court below by observing that the dispute appears to be of civil nature.

4. On the other hand, learned counsel for the State/non-applicant as well as learned Senior Counsel for the Objector oppose the bail application by submitting that the present is a case where the applicant kept on selling her property in pieces to large number of persons and ultimately when she executed sale deed in favour of the complainant in the year 2013, by that time, there was no land left in her hand for sale in favour of the complainant, as the revenue records were not corrected because mutation of name of earlier purchaser in the year 2012 was not completed due to non co-operation of the applicant and her husband, taking benefit of this situation, another sale deed was executed in

favour of the applicant. Not only this, it is argued that the dishonest intention of the applicant is disclosed from the fact that though the applicant had executed sale deed in favour of the complainant, she was not prepared to cooperate for mutation of name of the complainant for long time and when the complainant moved an application for mutation, on which, order of mutation was passed in his favour, the applicant challenged the order of mutation by filing an appeal, though that appeal was dismissed. Thereafter, when the Tahsildar directed for certification subsequent to mutation of land, Revenue Officer on the basis of spot inspection, reported that there was no land left available for being recorded in the name of the present complainant. Therefore, the present is a case of cheating. It is submitted that the applicant is not entitled to anticipatory bail when she has taken huge amount of Rs.15 Lakh and husband of the applicant who acted as Power of Attorney holder and the benefit of anticipatory bail in some other case are based on consideration of material which are different from the present case.

5. Upon prima facie consideration, it is found that the applicant executed sale deed through power of attorney holder in the year 2013 in favour of the complainant. The complainant has come out with material of payment of cash and cheque of Rs.15 Lakh. This Court also finds that there were certain sale deeds, which were made prior to sale deed of the present case. The applicant had been selling her property to different persons from time to time. The applicant had also objected to mutation and there is also a report to that effect that the land is not available at the spot.

6. Considering the aforesaid material, without further commenting on the merits of the case, the present does not appear to be a fit case for grant of anticipatory bail. Accordingly, the bail application is rejected. However, considering that co-accused-husband has been granted regular bail by the Court below, it is observed that if the applicant surrenders and applies for grant of regular bail before the Court below, the Court below shall consider and decide the regular bail application, as far as possible, on the same day.

Certified copy as per rules.

SD/-
(Manindra Mohan Shrivastava)
Judge