

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1289 of 2020

- Haresh @ Bunt Aahuja S/o Nanak Bhagwandas Aahuja Aged About 50 Years R/o Block 13, Plot No. 05, Nehru Nagar (West), Bhilai Durg, Tahsil and District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, District Durg, Chhattisgarh.

---- Respondent

AND

MCRCA No. 1290 of 2020

- Nanak Bhagwandas Aahuja S/o Late Shri Bhagwandas Aahuja Aged About 81 Years R/o Block - 13, Plot No. 5, Nehru Nagar (West), Bhilai Durg, Tahsil And District Durg, Chhattisgarh.

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate, District Durg, Chhattisgarh.

---- Respondent

For Applicants	: Shri Rajeev Shrivastava, Advocate.
For Respondent/State	: Shri Ghanshyam Patel, G.A.
For Objector	: Shri Jaydeep Singh Yadav, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel

Order On Board

04/11/2020

Heard through video conferencing.

1. Both cases arise out of same crime number, therefore, they are being decided by this common order.

2. The applicants have preferred the first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 221/2020 registered at Police Station Vaishali Nagar, District – Durg, (C.G.) for the offence punishable under Sections 420, 34 of the Indian Penal Code.
3. According to the case of the prosecution, applicant namely Haresh @ Bunt Aahuja (in MCRCA No. 1289/2020) showed the land bearing khasra No. 66/120, area 3000 sq. feet, situated at Patwari Halka No. 15/21, R.I. Durg-1, Tahsil and District – Durg, to the complainant, which was later sold by his father i.e. applicant namely Nanak Bhagwandas Aahuja (in MCRCA No. 1290/2020) on 2.3.2013 by executing a power of attorney and by executing sale deed in favour of the complainant and now the applicants are avoiding to execute the registered sale deed in favour of the complainant.
4. Learned Counsel appearing for the applicants submits that applicants are innocent and have been falsely implicated in the present case. He further submits that applicant Nanak Bhagwandas Aahuja has executed the registered power of attorney, in fact the complainant himself is trying to grab the land, without paying any consideration amount to the applicants. The power of attorney was executed at the request of the complainant, as the complainant appears to be a property dealer and wanted to save the stamp duty, as he intended to transfer the land in the name of third person. Complainant is trying to create the dispute with regard to identity of the land and has lodged the F.I.R. only to twist the arms of the applicants. Power of attorney

was executed on 2.3.2013 and since then complainant could not transfer the land till date and the limitation for civil dispute has already expired, then just to twist the arms of the applicants, F.I.R. has been lodged whereas the entire matter squarely falls within civil dispute. It is further submitted that there is inordinate delay in lodging the F.I.R. and delay in lodging the F.I.R. is not explained. Also after lodging the written complaint by the complainant, police authority conducted preliminary inquiry. During that proceedings, statement of applicant Nanak Bhagwandas Aahuja was recorded and other material documents were submitted by him. It is further submitted that applicant Nanak is an old person aged about 81 years and applicant Haresh & Bunt Aahuja is 54 years old. Since, entire case is of civil nature, all the related materials have been gathered by the police, statement of applicant Nanak Bhagwandas Aahuja have been recorded during inquiry, therefore, no custodial interrogation of the applicants are required. Thus, it is prayed that applicants may be granted benefit of anticipatory bail.

5. Learned Counsel appearing for the State and Objector oppose the anticipatory bail application. Counsel for Objector submits that both the applicants have lured the complainant by deceitfully portraying themselves as the owner of the disputed land and entered into an agreement dated 2.3.2013 with the complainant and took an amount of Rs. 16,50,000/- through demand draft. Subsequently, when the complainant repeatedly asked the applicant Nanak Aahuja to register the said land in his favour, applicant Nanak refused. Complainant upon enquiry got to know that applicants did not have any intention to

sell the said land to the complainant from the beginning. Some construction work was going on the said land which was formerly shown to the complainant by the applicants and applicant is also not coming forward to get the said land demarcated. Thus, looking to the above, it is prayed by that applicants should not be granted anticipatory bail.

6. I have heard learned Counsel appearing for the parties and perused the material available.
7. 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 on perusal of the F.I.R. and other documents annexed with bail petition and objection filed by the objector, it appears that the disputed land is still in the name of applicant Nanak Bhagwandas Aahuja. The power of attorney executed in favour of complainant is a registered power of attorney. During preliminary enquiry, statement of applicant Nanak Aahuja has been recorded and other material documents have been collected. *Prima facie*, present case seems to be of civil nature. Since, preliminary inquiry have been conducted and also other relevant documents have been collected, therefore, custodial interrogation of the applicants are not required. Thus, looking to the facts of the case in totality, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicants.
8. Accordingly, the anticipatory bail applications are allowed.
9. It is directed that in the event of arrest of the applicants in connection

with the aforesaid crime, they shall be released on anticipatory bail on each of them 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. They shall also abide by all the following terms and conditions :

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