

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1722 of 2019**

1. Pawan Tamboli, S/o Late Shri Dhaniram Tamboli Aged About 66 Years R/o Ward Number 18, Kurmipara, Mahasamund Tahsil and Police Station Mahasamund, District Mahasamund, Chhattisgarh.
2. Smt. Santosh Bai Mahobia W/o Shri Tijau Ram Mahobia Aged About 70 Years R/o Ward Number 10, Shanker Nagar Durg, Tahsil and District Durg, Chhattisgarh.
3. Smt. Purnima Somaraj W/o Shri Ghudan Lal Aged About 55 Years R/o Ward Number 05, Lanjhi, Tahsil Lanjhi, District Balaghat, Madhya Pradesh.

---- Applicants**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Mahasamund, Civil and Revenue District Mahasamund, Chhattisgarh.

---- Respondent

For Applicants	: Shri Sunil Sahu, Advocate.
For Respondent/State	: Shri Alok Nigam, G.A.

Hon'ble Shri Justice Arvind Singh Chandel
Order On Board**16/01/2020**

1. The Applicants are apprehending their arrest through first bail application filed under Section 438 of Cr.P.C. in connection with Crime No. 239/2019 registered at Police Station Mahasamund, District Mahasamund, (C.G.), for the offence punishable under Section 420/34 of IPC.
2. As per the prosecution story, one Arjundas Waswani has purchased a land of Khasra No. 532/1, area 0.336 Hectare through a registered sale deed, dated 23.09.2017 from the present Applicants and other co-accused persons and the application for mutation was filed before the Court of Tehsildar, which has been rejected. Therefore, an appeal is filed before the SDO Revenue and vide order dated 06.03.2019,

SDO passed the order for cancellation of said sale deed and further directed to lodge a report against the seller as the land in question was acquired by Water Resources Department in land acquisition case No. 12-A-82/1991-92 and the amount of compensation has already been paid, therefore, their title is not remain in the land in question.

3. Learned Counsel appearing for the Applicants submits that the Applicants are innocent and have been falsely implicated in the present case. He further submits that, land in question was acquired by Irrigation Department in the year 1991-92 and this fact was not known to the present Applicants and they were unaware of the land acquisition proceedings. Also, their names have been shown in the revenue records, therefore, they signed the power of attorney to execute the sale deed and they did not have any concern with the said sale deed. It is further submitted that, said land was sold to one Arjundas Waswani and on the complaint made by him, one separate offence under Section 420/34 of IPC has been registered against Kamal Tamboli and Pawan Tamboli and they have been granted anticipatory bail by this Court. Again for the same land, offence has been registered against the present Applicants on the basis of order passed by Revenue Authority. It is further submitted that, *prima facie*, no offence under Section 420 of IPC is made out against the present Applicants. There is civil/revenue dispute between the parties and instead of filing the suit or initiate the revenue proceedings, Complainant lodged the report. It is further submitted that on the same set of evidence, other co-accused persons namely Khilawan Tamboli, Mukesh Tamboli and Hukumchand Tamboli have already been granted benefit of anticipatory bail by this Court vide order dated 09.08.2019, passed in MCRCA No. 1065/2019. Therefore, it is prayed that, present Applicants may also be extended the benefit of anticipatory bail.
4. Learned Counsel appearing for the State opposes the bail application and submits that according to the material contained in the case diary, *prima facie*, the case alleged against the present Applicants are made out. Therefore, they do not deserve to be granted anticipatory bail.

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 and further considering the fact that land acquisition was initiated in the year 1991-92 and mutation was not done in favour of Irrigation Department and three co-accused persons have already been granted anticipatory bail by this Court vide order dated 09.08.2019 passed in MCRCA No. 1065/2019, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present Applicants.
7. Accordingly, the anticipatory bail application is allowed.
8. 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 him 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 him by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
Judge