

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1740 of 2019**

- Vinay Kumar Mitra S/o Late N.D. Mitra Aged About 63 Years R/o Aadarsh Nagar, Durg, Post Durg, Thana Durg, Tehsil and District- Durg, Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through The S.H.O. Police Station- Old Bhilai, Durg, District- Durg, Chhattisgarh.

---- Respondent

For Applicant	: Shri Goutam Khetrapal, Advocate.
For Respondent/State	: Shri Alok Nigam, G.A.
For Objector	: Shri R.N. Mukherjee, Advocate.

Hon'ble Shri Justice Arvind Singh Chandel**Order On Board****22/01/2020**

1. The applicant has preferred this first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 407/2019 registered at Police Station Old Bhilai, District – Durg, (C.G.) for the offence punishable under Section 420 of Indian Penal Code.
2. As per the prosecution story, complainant Basant Kumar Lenka entered into an agreement for purchasing of a land belonging to present applicant and as per one agreement dated 03.03.2013, applicant was agreed to sell the said land to complainant for a consideration amount of Rs. 10,50,000/- out of which complainant had paid Rs. 10,00,000/- to applicant on various dates through cash and cheques. On 29.12.2018 a written complaint was filed by the complainant alleging therein that applicant is not ready to execute the

sale-deed nor returning the money to him. 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 due to some dispute. He further submits that *prima facie*, no case under Section 420 of I.P.C. is made out against present applicant. The present case is of civil nature. He further submits that complainant should have filed any suit for specific performance of contract but the same was not filed by the complainant. It is further submitted that applicant is ready for execution of sale-deed or to return the advanced amount to the complainant. Applicant has also sent a legal notice on 13.09.2019 with a demand draft of Rs. 10,00,000/- in favor of complainant. Thus, looking to the above, it is prayed that present applicant may be granted benefit of anticipatory bail.
4. Learned Counsel appearing for the State opposes the bail application.
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 further considering the fact that present case appears to be of civil nature, 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 will be prejudicial to fair and expeditious trial, and
- (iii) He 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