

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1797 of 2020**

1. Prakash Kedia S/o Late Shri Abirchand Kedia Aged About 62 Years,
2. Manju Kedia W/o Prakash Kedia Aged About 62 Years

Both are R/o B - 601, Metro Heights, Telibandha, District Raipur Chhattisgarh.

----Applicants

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Aamanaka, Raipur, District Raipur Chhattisgarh.

---- Respondent

MCRCA No. 28 of 2021

- Anupam Kedia S/o Prakash Kedia, Aged About 34 Years R/o 601 Block B, Near Airtel Office, Metro Heights, Telibandha, Raipur, District Raipur Chhattisgarh.

----Applicant

Versus

- State Of Chhattisgarh Through The Station House Officer, Police Station Aamanaka, Raipur, District Raipur Chhattisgarh.

---- Respondent

For Applicants	:-	Mr. Rajeev Shrivastava, Adv with Mr. Sourabh Sahu, Adv
For Respondent-State	:-	Mr. Ayaz Naved, G.A.
For Objector	:-	Mr. Y.C. Sharma, Adv

Hon'ble Shri Justice Prashant Kumar Mishra
Order On Board

01/03/2021

1. Since both the anticipatory bail applications are arising out of same crime number, they are being heard and decided by this common order.
2. The applicants have preferred these bail applications for grant of anticipatory bail, as they apprehend their arrest in connection with Crime No.215/2020 registered at Police Station Aamanaka, Raipur for the offence punishable under Section 420 and 34 of the I.P.C.
3. As per the FIR lodged by complainant Santosh Sharma, President of Chhattisgarh Vyapari Sangh, Raipur, the applicants have developed and constructed a project namely; Kedia Business Park on four lane road at Tatiband, however, construction of huge entry gate of the said project has been made by encroaching over the land belonging to Falendra Chandrakar & Dr. Vipin Chandrakar. It is mentioned in the FIR that the building sanction plan was obtained originally on 17-9-2009, which was modified on 16-12-2016 without mentioning sanction of the huge entry gate, but despite that such construction is made on someone else's land because the applicants did not own any land on the Raipur-Kumhari Main Road. It is also mentioned that because of such construction members of the locality including the Traders & Farmers are facing great difficulty in exercise of their *nistari* (निस्तरी) rights.

4. It is argued by learned counsel appearing for the applicants that the applicants have raised construction on their own land after obtaining required sanction/ permission to develop the project. Learned counsel further argued that the applicants have dispute with one Abhishek Jain, who is using the present complainant for lodging the false complaint.
5. Learned counsel for the State and learned counsel for the objector, *per contra*, would oppose the bail application. According to them the applicants are involved in encroaching land belonging to other persons and causing obstruction to the members of the locality and that they have raised construction by deviating from the sanctioned plan and by fraudulently obtaining the sanction on the basis of incorrect facts and documents.
6. On perusal of documents available on record including the case diary it appears the original sanction was granted on 17-9-2009 and modified the same on 16-12-2016 and, as such, the construction is made after obtaining permission from the Department of Town & Country Planning. Whether or not the construction is made by encroaching some part of land belonging to Falendra Chandrakar & Dr. Vipin Chandrakar can be examined by the concerned Department of the State Government as and when any complaint is filed by those individuals. The informant does not claim ownership rights over any land on which the alleged construction is made. The dispute mainly appears to be of civil nature regarding construction of huge entry gate on four lane

National Highway at Tatibandh. The applicants in MCRCA No.1797 of 2020 have been allowed interim bail by order dated 24-12-2020, which they have not misused.

7. Considering the nature of allegations and the facts and circumstances of the case, I am inclined to release the applicants on anticipatory bail.
8. Accordingly, both the anticipatory bail applications are allowed and it is directed that in the event of arrest of the applicants, they shall be released on anticipatory bail on their executing a personal bond for a sum of Rs.50,000/- with one surety in the like sum to the satisfaction of the arresting officer with the following conditions:-

- (i) they shall make themselves available for interrogation by a police officer as and when required;
- (ii) 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 facts to the Court or to any police officer;
- (iii) the applicants shall not influence the witnesses during pendency of the trial.

SD/-
(Prashant Kumar Mishra)
Judge

Gowri