

HIGH COURT OF CHHATTISGARH, BILASPUR**M.CR.C. No. 1344 of 2021**

Shyamlal Yadav, S/o. Jageshwar Yadav, aged about 55 years, R/o. Dadar Khurd, Chowki – Manikpur, Station – Kotwali, Tehsil and District – Korba (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through : The Police Station – Kotwali, Chowki – Manikpur, Korba, District Korba , Chhattisgarh.

M.CR.C. (A) No. 164 of 2021

Anshu Pandey, S/o. B.P. Pandey, aged about 30 years, R/o. MIG 01/150, Maharana Pratap Nagar, Korba, District – Korba (C.G.)

---- Applicant

Versus

State of Chhattisgarh, Through : The Police Station – Kotwali, Korba, District Korba , Chhattisgarh.

---- Respondent

For Applicants	: Mr. Anshul Tiwari, Advocate
For Respondent/State	: Mr. Sameer Uranw, Govt. Advocate
For Complainant	: Mr. S.S. Baghel, Advocate

Hon'ble Shri Justice Rajendra Chandra Singh Samant

Order On Board

26/05/2021

1. As both these bail applications arise out of the same crime number, they are being decided by this common order.
2. M.Cr.C. No. 1344 of 2021 has been filed by the applicant Shyam Lal Yadav under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail, who has been arrested in connection with Crime No.44/2021, registered at Police Station – Kotwali, Chowki Manikpur, Korba, District – Korba (C.G.) for the offence punishable under Section

420, 409 and 34 of the Indian Penal Code.

3. M.Cr.C.(A) No. 164 of 2021 has been filed by the applicant Anshu Pandey under Section 438 of Cr.P.C. for grant of anticipatory bail as he is apprehending his arrest in connection with aforesaid Crime No.44/2021, registered at Police Station – Kotwali, Korba, District – Korba (C.G.) for the offence punishable under Section 420, 409 and 34 of the Indian Penal Code.
4. It is submitted by the learned counsel for the applicant (in M.Cr.C. No. 1344 of 2021) that the applicant Shyamlal Yadav has been falsely implicated in this case. The complainant Dhankunwar had executed a power of attorney for sale of a property in favour of this applicant in the year 2013. Although it is claimed that the power of attorney has been revoked and cancelled in the year 2018, but this applicant had no knowledge of the same. According to Section 206 of Indian Contract Act, 1872, notice of revocation of any such power of attorney is necessary, which was never given to the applicant. Therefore, the sale deed that was executed in the year 2020 by this applicant was with bonafide belief that he is still power of attorney holder of the complainant. It is submitted that the dispute has been settled with the complainant. The applicant is in jail since 15.01.2021. Hence, it is prayed that he may be released on regular bail.
5. It is submitted by the learned counsel for the applicant (in M.Cr.C.(A) No. 164 of 2021) that the applicant Anshu Pandey has been falsely implicated in this case. It is submitted that this applicant had only negotiated the sale, he is neither the power of attorney holder nor he is the purchaser of the property, therefore, he is not a beneficiary of the

said sale deed. This applicant had no knowledge about the revocation of power of attorney of the applicant – Shyam Lal Yadav, therefore, there is no means rea present with respect to this applicant. Therefore, it is prayed that he may be benefited with grant of anticipatory bail.

6. On the other hand, learned counsel for the State opposes both the bail applications and the submissions made in this respect. It is submitted that there is no document filed by the applicant Shyam Lal Yadav in support of his statement that dispute has been settled. The evidence collected in investigation clearly make out the offence against both the applicants, therefore, both the applications be rejected.
7. Counsel for the complainant has not made any specific objection with regard to grant of bail to the applicant – Shyam Lal Yadav, however, the complainant has objection in grant of anticipatory bail to the applicant Anshu Pandey.
8. I have heard the learned counsel for both the parties and perused the case diary.
9. Complainant Smt. Dhankunwar has lodged complaint that she had executed power of attorney in favour of the applicant Shyam Lal Yadav on 16.01.2013 in which, Shyam Lal Yadav was authorized to make sale of 0.20 acres of land of the property. The complainant revoked and canceled this power of attorney by a written deed dated 24.07.2018. Subsequent to this revocation, sale deed dated 28.10.2020 was executed by the applicant Shyam Lal Yadav, regarding sale of another portion of the property of the complainant. The complainant came to know about the sale deed dated 28.10.2020, and she has alleged that this sale has been made in excess to the

authorization given in power of attorney, which was already revoked and further she has not received any consideration of the same.

10. Considered on the submissions. The applicant Shyam Lal Yadav is in jail since 15.01.2021, the offences registered are triable by J.M.F.C., hence for this reason, this Court is of the opinion that present is a fit case, in which, the applicant should be enlarged on regular bail.
11. As regards the applicant Anshu Pandey, his statement has been recorded in the investigation and he has stated that he had no knowledge about revocation of power of attorney and that he is only a middle man, hence for this reason, this Court is inclined to extend the benefit of Section 438 of Cr.P.C. to the applicant Anshu Pandey.
12. Accordingly, both the bail applications filed under Section 439 of the Cr.P.C. and filed under Section 438 of Cr.P.C. are allowed.
13. It is directed that applicant – Shyam Lal Yadav shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned trial Court, for his appearance as and when directed.
14. Likewise, it is also directed that that in the event of arrest of the applicant – Anshu Pandey (in M.Cr.C.(A) No. 164 of 2021) in connection with the aforesaid offence, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions :
 - (i) that the applicant shall make himself available for interrogation

before the investigating officer as and when required;

(ii) that the applicant 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 facts to the Court or to any police officer;

(iii) that the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(iv) that the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Rajendra Chandra Singh Samant)
Vacation Judge

Balram