

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1520 of 2021**

- Sumit Gailani S/o Ramesh Gailani, Aged About 25 Years, R/o -Railway Colony Chowk, Tilda, Tahsil -Tilda, District -Raipur, Chhattisgarh.

---- Applicant**Versus**

- State of Chhattisgarh Through Station House Officer, Police Station -Civil Lines, Raipur, Chhattisgarh.

--- Respondent

For Applicant	: Mr. Vivek Sharma, Advocate.
For State	: Mr. B.P. Banjare, Dy. GA.

(Proceedings through video conferencing)**Hon'ble Shri Parth Prateem Sahu, J****Order on Board****16/07/2021**

Heard.

1. This is first bail application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant, who has been arrested in connection with Crime No.427/2020, registered at Police Station –Civil Lines, Raipur, (C.G), for the offence punishable under Sections 420 & 34 of Indian Penal Code.
2. Case of the prosecution is that on 06.06.2020, one Nikhil Gailani entered into agreement with complainant for sale of his house situated on land bearing Khasra No.224/13 measuring about 880 sq. ft. situated at Pushpanjali Nagar, Alimdih, Raipur. On the date of agreement, advance amount of Rs.1,50,000/- was paid by the complainant through cheque in name of Nikhil Gailani and thereafter, further amount was also deposited in account of Nikhil Gailani. At the time of entering into agreement, it is informed that said property is free from all encumbrances, but in fact the property was mortgaged with Punjab National Bank Housing Limited, Raipur. Applicant signed the agreement as witness. Hence, they have cheated the complainant. On the basis of complaint, instant crime is

registered against applicant and Nikhil Gailani.

3. Learned counsel for the applicant submits that false and frivolous allegation has been levelled against the applicant, amount has been deposited by complainant/purchaser in the account of Nikhil Gailani (owner of house). Applicant has only signed the agreement as a witness and he was not aware about the fact of mortgage of property by accused Nikhil Gailani. Applicant is in jail since 01.01.2021. Offences are triable by Magistrate First Class, conclusion of trial may take some time. Hence, applicant may be enlarged on bail.
4. Learned counsel for the State opposes the submissions made by learned counsel for the applicant and submits that present applicant and Nikhil Gailani are real brothers. As per allegations, on the say of applicant, complainant has deposited further amount in bank account of Nikhil Gailani. The present applicant is also involved in instant crime, hence, he is not entitled for grant of bail.
5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of the case, nature of allegations levelled against present applicant and the fact that present applicant is only witness to sale agreement between Nikhil Gailani and complainant Akash Lalwani, all amount has been deposited in the Bank account of Nikhil Gailani and offence to be triable by the Magistrate, without commenting anything on merits of the case, I am inclined to allow this bail application.
7. Accordingly, bail application is allowed. It is directed that applicant shall be released on regular bail, on his furnishing a bail bond in sum of **Rs.25,000/-** with one local surety in the like sum to the satisfaction of the Court on the conditions that-

a) Applicant shall appear as and when directed by the investigating agency during the course of investigation.

b) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.

b) He shall not, in any manner, tamper with the prosecution witnesses.

c) If he is found involved in similar offence in the future, it will be open for the State to apply for cancellation of Bail.

Certified copy as per rules.

Sd/-

(Parth Prateem Sahu)
Judge

Jamal/-