

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 283 of 2021**

Avinash Peswani S/o Shri Suresh Peswani, Aged About 32 Years, R/o Flat No. 207, Shilapark Apartment, Rajkishore Nagar, Bilaspur Chhattisgarh.

Note - Address of the Applicant Completely not mentioned in impugned order.

---- Applicant

Versus

State of Chhattisgarh Through Police Station In-charge, P.S. Civil Lines, District Bilaspur Chhattisgarh.

---- Non-applicant

For Applicant : Shri Akash Shrivastava, Advocate

For Non-applicant/State : Shri Alok Nigam, Government Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****05/04/2021**

1. The applicant has preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as he is apprehended his arrest in connection with Crime No.167/2021 registered at Police Station Civil Lines, Bilaspur, Tahsil and District Bilaspur, Chhattisgarh, for offence punishable under Sections 420 and 34 of Indian Penal Code.
2. Case of the prosecution in brief, is that, complainant Brajesh Agrawal has lodged a written report mentioning therein that he is sole owner and possession holder of the land bearing Khasra No.454/57 measuring 0.04 hectares, Khasra No.454/58 measuring 0.14 hectares, Khasra No.454/59 measuring 0.023

hectares and Khasra No.454/61 measuring 0.023 hectares, which he purchased through registered sale deed dated 24.07.2008 from Smt. Saroj Agrawal, Sharda Prasad Mishra, Rajendra Agrawal and Sarju Prasad Mishra. The aforementioned land was sold by Holaram Peswani vide registered sale deed dated 25.11.1985 in favour of Bisandas. Legal representatives of Bisandas have sold the same land to different persons, from whom, complainant has purchased the land through registered sale deed. The said property was mortgaged through Union Bank in the year 2010 and thereafter with Karnataka Bank in the year 2016. Holaram Peswani through his power of attorney holder fraudulently through forged documents executed sale deed on 16.06.2020 in favour of Mahesh Kumar Agrawal. Based on written complaint, aforementioned crime was registered against present applicant.

3. Shri Akash Shrivastava, learned counsel for the applicant submits that land bearing Khasra No.454/1 has been sold by Holaram Peswani to Bisandas. Civil suit between Totaram Peswani v. Holaram Peswani was decided in favour of Holaram Peswani and Holaram Peswani has been declared to be sole owner and possession holder of land mentioned therein including Khasra No.454/1. Based on the decree passed in favour of Holaram Peswani, application for correction of revenue records were made and by virtue of order passed by Naib Tahsildar, revenue records were corrected, thereafter, applicant has executed sale deed. He further submits that applicant has not committed any offence as

alleged against him, hence, he may be enlarged on anticipatory bail.

4. Per contra, Shri Alok Nigam, learned Government Advocate for the State vehemently opposes the bail application and submits that applicant was well aware of the fact that Holaram Peswani has sold the property bearing Khasra No.454/1 through registered sale deed in the year 1985, a copy of which is placed on record as Annexure A/2. This sale deed was not challenged and civil suit is for the dispute inter-say between Holaram Peswani and Totaram Peswani, who are relatives. He further submits that application filed by applicant for correction in the revenue records in the Court of Additional Tahsildar, Sakri, complainant was a party respondent/non-applicant, but no notice has been sent to him instead the proclamation was published. The complainant was not aware about any proceeding as it was not made known to him purposefully and after getting the name of Holaram Peswani recorded in revenue records, land of complainant has been sold. It is contended that there is *prima facie* material against the applicant, hence, he is not entitled for anticipatory bail.
5. I have heard learned counsel for the respective parties.
6. The applicant has placed on record copy of sale deed dated 25.11.1985 by Holaram Peswani in favour of Bisandas. The sale deed has been stated in the application to be a fraudulent transaction, but it was not challenged. The judgment of civil suit is with regard to inter-say dispute between Holaram Peswani and Totaram Peswani, who are relatives and of same family. Applicant

has filed application for correction of revenue records, which is recorded in the name of Brajesh Agrawal, who is not party to the suit, but his name is recorded in the revenue records and without giving notice of any proceeding to him, applicant got the revenue records corrected and executed sale deed.

7. Taking into consideration the facts available in the case diary as also appearing from the documents placed on record by the applicant, I do not find it to be a fit case to release the applicant on anticipatory bail.
8. Accordingly, anticipatory bail application is dismissed.

Sd/-

(Parth Prateem Sahu)
Judge

Yogesh