

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 1557 of 2021**

- Dharampal Soni, S/o Late Nathuram Soni, Aged About 40 Years, R/o Ward No. 9 Village Mudhipara Police Station Sirgitti District Bilaspur Chhattisgarh

---- Applicant (In jail)**Versus**

- State Of Chhattisgarh Through Station House Officer Police Station Sirgitti District Bilaspur Chhattisgarh

---- Respondent

For Applicant	: Shri Jitendra Shukla and Bharat Gulabani, Advocates
For Respondent/State	: Shri Vaibhav Singh, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board
(Proceeding through Video Conferencing)

07.07.2021

1. Applicant has preferred this application under Section 439 of CrPC for grant of regular bail as he was arrested in connection with Crime No. 78 of 2021 registered at Police Station- Sirgitti, District- Bilaspur, Chhattisgarh for the offence punishable under Section 420 of the IPC.
2. Case of the prosecution, in brief, is that on 19.02.2018, complainant entered into an Agreement for sale of his land measuring 0.44 acres for a total sale consideration of Rs.5,11,000/-. Period of execution of sale deed has been mentioned in the Agreement of six months. When the parties went to the Registry Office on 06.02.2021, at that time, it was revealed that the land which is part of Agreement of sale deed was mortgaged with Andhra Bank, Chakrabhata Branch and there was outstanding loan amount of Rs.22,125/-, therefore, sale could not be executed. On this complainant lodged a report based upon which aforementioned crime was registered against present applicant.

3. Shri Jitendra Shukla, and Shri Bharat Gulabani, learned counsel for applicant submit that applicant has not committed any offence as alleged against him. He submits that applicant has entered into an agreement for sale of land, but he is not aware of the fact that the subject land was mortgaged with Andhra Bank, as Bank loan was obtained by late father of applicant. He further submits that outstanding loan amount is only of Rs.22,125/- and present applicant is ready to execute the sale deed after re-payment of outstanding loan amount. Applicant is in jail since 07.02.2021 and Offence is triable by the Magistrate. Co-accused, mother of applicant has already been released on bail. In these circumstances, he prays that the applicant may be enlarged on bail.

4. Shri Vaibhav Singh, learned State counsel opposing the submissions of learned counsel for the applicant, submits that as on the date of execution of Agreement to sale, there is outstanding loan amount but in Agreement, it is mentioned that property is free from all encumbrances, hence the instant crime was registered.

5. I have heard learned counsel for the parties.

6. Taking into consideration nature of allegation, the fact that property in question was mortgaged by late father of present applicant, applicant is still ready to execute the sale deed after depositing loan amount as stated by learned counsel for the applicant, applicant is in jail since 07.02.2021, offence is triable by the Magistrate, which may take some time, without commenting anything on merits of the case, I am inclined to enlarge the applicant on bail.

7. Accordingly, the bail application is allowed. It is directed that the applicant shall be released on regular bail upon furnishing personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one local surety in the like sum to the satisfaction of the Court below concerned on the condition that:

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma