

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 450 of 2021**

- Nand Kumar Gadhewal, aged about 45 years, S/o Indarman, R/o village Avrid, P.S. Navagarh, District Janjgir-Champa (C.G.)

---- Applicant**Versus**

- State of Chhattisgarh - Through : P.S. Navagarh, District Janjgir-Champa (C.G.)

---- Respondent

For Applicant	:	Mr. F.S. Khare, Advocate.
For Respondent.	:	Mr. Vimlesh Bajpai, G.A.
For Objector	:	Mr. Arvind Shrivastava, Advcoate.

Hon'ble Smt. Justice Rajani Dubey**Order on Board****21/06/2021**

Proceeding through video conferencing.

1. This application under Section 438 of the Code of Criminal Procedure has been filed by the applicant who is apprehending his arrest in connection with Crime Number 76/2021 registered at Police Station - Navagarh, District Janjgir-Champa (C.G.) for the offence punishable under Sections 420, 467, 468 and 471 of Indian Penal Code.
2. The prosecution story, in brief, is that Nayab Tahsildar, Navagarh District, Janjgir-Champa (C.G.) made a complaint to police station Navagarh for lodging an FIR against the present applicant stating that accused Nand Kumar Gadhewal is having a patta No.A/95 of village Arvid of Khasra No.207/1(A) area 0.70 acres issued by Tahsildar Janjgir on 10.08.1995, which is inspected but no entry is found in the revenue

record and it is found that the accused has obtained the patta in forged and concocted manner. On the basis of complaint an FIR is registered on 11.02.2021.

3. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the crime in question. He further submits that the applicant was granted patta way back in the year 1995, he has constructed a house, the land is in his possession and he is residing in the house with his family. He also submits that after complaint being made by one Kirti Bilas, stay order was passed. Against the order of stay, the applicant preferred a revision before the Collector, Janjgir-Champa, who in turn, remitted the case to the Tahsildar with a direction to decide the matter afresh. Learned counsel also submits that the civil suit of the alleged land is pending before the Civil Court and during pendency of the suit, the complainant submitted a copy of FIR dated 11.02.2021 registered against the applicant. He also submits that the applicant is residing over the suit land for last 22 years and no plausible explanation has been offered by the complainant in this regard. It is next submitted that lodging of FIR during pendency of revenue case and civil suit, is abuse of process and against the law. Therefore, he may be granted anticipatory bail.
4. Counsel for the State however opposes the application for anticipatory bail.
5. Mr. Arvind Shrivastava, learned counsel for the Objector opposing the anticipatory bail application submits that the applicant was granted lease deed of different khasra number,

whereas the revenue case and civil suit is pending for different khasra number, upon which taking the advantage of his location on the basis of his illegal possession, he encroached on the land within the ownership of the objector.

6. After hearing counsel for the parties and considering the facts and circumstances of the case, and further considering the fact that the applicant is in possession over the suit land since 1995, without commenting anything on merits of the case, this Court is of the considered opinion that it is a fit case to grant anticipatory bail to the applicant.
7. Accordingly, the application is allowed. It is directed that in the event of arrest of the applicant in connection with aforesaid crime number, he shall be released on bail on his furnishing a personal bond in the sum of Rs.50,000/- with one surety for the like sum to the satisfaction of the concerned arresting/investigating officer or the court concerned, as the case may be, with the following terms and conditions:
 - (i) that the applicant shall make himself available for interrogation/medical examination before the concerned 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 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.

Sd/-
(Rajani Dubey)
Judge