

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 447 of 2021**

Seema Agrawal W/o Shri Sanjay Agrawal Aged About 48 Years
Vocation Housewife, R/o School Para Baikunthpur, Tahsil
Baikunthpur, District Koriya Chhattisgarh.

----Applicant**Versus**

State Of Chhattisgarh Through Police Station Baikunthpur, District
Koriya Chhattisgarh.

---- Respondent**MCRCA No. 609 of 2021**

Sanjay Agrawal S/o Sh. Mahangi Lal Agrawal Aged About 53 Years
Vocation Business (Director Maa Vaishnav Asso. Pvt. Ltd.) R/o
School Para Baikunthpur, Tahsil Baikunthpur, District Koriya
Chhattisgarh.

---- Applicant**Versus**

State Of Chhattisgarh Through Police Station Baikunthpur, District
Koriya Chhattisgarh.

---- Respondent

For applicants – Shri R.K. Gupta, Advocate.
For Respondent/State –Shri Alok Bakshi, Addl.A.G., Shri Gagan Tiwari,
Dy.G.A. and Shri Rahul Jha, G.A.

Hon'ble Shri Justice Goutam Bhaduri**Order****04/08/2021**

1. Both these anticipatory bail applications are decided by this common order as they are arising out of the same crime number.
2. These applications under Section 438 of Cr.P.C. has been filed by the applicants apprehending their arrest in connection with Crime No.36/2021 registered at Police Station Baikunthpur, District Koriya (C.G.) for offence punishable under Sections 420, 120(B) & 24 of IPC in MCRCA No. 447 of 2021 and for offence punishable under Sections 420, 120(B) of IPC in MCRCA No. 609 of 2021.
3. As per the prosecution case, both the applicants have sold certain part of land which was acquired by the Water Resources Department in the year

1997 bearing Khasra No.99, 108, 109 and 110/1 to four different persons by destroying the canal and converted into road. The inspection was carried out by the State authorities on 27th November, 2020 and it was found that the canal was destroyed and road has been constructed.

4. Learned counsel for the applicants submits that it would be a case of encroachment which has been given a colour of criminality. He would submit that there is no document on record to show how much land was within the canal i.e. the dimension whereas the document which is filed along with this petition Annexure A-3 dated 20/12/2013 would show that he was given the permission to construct a culvert over the canal and accordingly a culvert was prepared over the canal. It is further submitted that if the applicants have sold certain part of land to different persons and the purchasers have encroached upon over and above the land sold, then in such case it would be a case of encroachment by the purchasers and no criminality can be attached to the applicants, therefore the applicants may be granted benefit of anticipatory bail.

5. Per contra, learned State counsel would submit that the part joint inspection on 27th November, 2020 it is part of the case diary, it shows that the applicants have sold part of khasra No. 99, 108, 109, 110/1 to four persons namely Rupa Shriwas, Rambha, Mohd. Rashid and Mohd. Shahid and the inspection report would reveal that the canal which was existing has been completely destroyed and the land of the canal too was sold to the different purchasers by carving of plots. Further it is pointed out that against applicant Sanjay Agrawal in 2007, 2009, 2012, 2015 cases under Section 186, 353, 294, 506, 188, 193, 420, 467, 468, 471 of IPC were registered. Further in the year 2017 three cases were registered against Sanjay Agrawal one under section 294, 506 of IPC, second under Section 294, 323, 506, 353, 332 of IPC and third under section 294, 506, 323, 395, 427, 447, 448 of IPC, in year 2019 case was registered under Section 294, 323 and 506 IPC and in

the year 2020 case was registered against Sanjay Agrawal and Seema Agrawal under section 467, 468, 471, 120-B of IPC and in the year 2020 another case was registered against Sanjay Agrawal u/s 243, 294, 506, 342, 365, 420, 467 of IPC and again in 2020 similar offence is registered u/s 420, 120-B, 34, 294, 506, 34 IPC this offence is registered against Seema Agrawal also and in 2021 further cases are registered against both the applicants

6. Learned counsel for the applicants submits that though the State claims that certain cases are registered but then the applicants have been enlarged on bail in all the cases.

7. After considering the submission of the State counsel and the nature of allegation that the applicants in connivance with each other have sold the land which was acquired by the government to the different beneficiaries and received huge sum, thereafter coupled with the fact that number of cases are to the credit of applicants Sanjay Agrawal and Seema Agrawal over almost every year, I am of the opinion that it is not a case where benefit of section 438 of Cr.P.C. can be extended to the applicants.

8. Accordingly, both the anticipatory bail applications are dismissed.

Sd/-
(Goutam Bhaduri)
JUDGE