

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 473 of 2021**

- Shish Kumar Nag S/o Late Subahu Nag Aged About 36 Years R/o House No. 126, Housing Board Colony, Dondekhurd, Raipur , Tahsil And District Raipur, Chhattisgarh, Mobile No. 9111170741

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Khamtarai, District Raipur, Chhattisgarh

---- Respondent

For Applicant : Shri S.M. Shukla, Advocate with Shri
Jitendra Shukla, Advocate

For Respondents/State : Shri Aditya Bhardwaj, PL

Hon'ble Shri Justice Goutam Bhaduri**Order****09/08/2021**

1. Heard.
2. This application under Section 438 of the Code of Criminal Procedure has been filed by the applicant apprehending his arrest in connection with Crime No. 125/2020 registered at Police Station Khamtarai, District Raipur (C.G.) for the offence punishable under Section 420, 34 of the Indian Penal code.
3. As per the prosecution case, a report was lodged by one Kalpana Yadav that the present applicant, who worked as a middleman, introduced her to Sharad

Kumar Lahare. Thereafter, a property/house situated over Khasra No.436/13 admeasuring 714 sq. feet was purchased for an amount of Rs.15,50,000/- on 25.04.2015. Subsequently, it was revealed that the present applicant along with Sharad Kumar Lahare has already sold the said property to one Vinay Singh by two separate sale deeds i.e. 04.03.2015 and 25.04.2015.

4. Learned counsel for the applicant would submit that the applicant is neither the beneficiary nor has sold the property and the incident was of 25.04.2015 for which the report was made on 12.03.2020 after the period of 6 years. He would further submit that since the EMIs were being paid for the property and the complainant wanted certain amount in the name of loan, which was refused the report has been made. He would further submit that no sale deed ever existed in the name of Vinay Singh and it is a forged document created, therefore, the applicant may be given the benefit of anticipatory bail.
5. Per contra, learned State counsel opposes the prayer for grant of bail and would submit that the subject property was earlier sold to Vinay Singh inconvenience with Sharad Kumar Lahare and the present applicant was a witness to that.
6. Perused the case-diary. Perusal of the case-diary would show that in a sale-deed which was executed in favour of Vinay Kumar Singh, the present applicant is the witness and the sale-deed is of Khasra No.436/13 admreasuring 816 sq. feet. Therefore, the submission of the applicant that no sale-deed existed appears to be wrong as the applicant was a witness. Prima facie, it shows that the property in question which was sold to the complainant was already sold

earlier. The documents also show that the another part of the same land of 581 sq. feet when was sold to Vinay Kumar Singh, the applicant was in know of the fact. Therefore, taking into such facts, in my opinion this is not a case where the benefit of Section 438 Cr.P.C. can be granted.

7. Accordingly, the anticipatory bail application is dismissed.

Sd/-
Goutam Bhaduri
Judge

Ashu