

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 616 of 2021**

Shivshankar Agrawal S/o Late Parmeshwari Lal Agrawal Aged
About 48 Years R/o Plot No. 40, 41, Transport Nagar Korba,
Police Station Chowki, C S E B Chowk, Korba, Tehsil Korba,
District Korba Chhattisgarh

---- Applicant**Versus**

State of Chhattisgarh Through Police Station Kotwali, Korba,
District Korba Chhattisgarh

---- Non-applicant

For Applicant : Shri Manoj Paranjpe, Advocate

For Non-applicant/State : Shri Vimlesh Bajpai, G.A.

(Proceedings through Video Conferencing)

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**15.07.2021**

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 apprehending his arrest in connection with Crime No.370 of 2021, registered at Police Station Kotwali, Korba, District Korba (C.G.), for offence punishable under Sections 420 and 468 of Indian Penal Code.
2. Case of the prosecution in brief, is that, complainant Deendayal Agrawal has lodged a written complaint on 06.05.2021 mentioning therein that he has obtained Shop No.4 from SADA under lease deed. Present applicant has requested for running his business till construction of his own shop. While running the business in the disputed shop, applicant under the letter head of Shiv Agency had made an application before the competent authority for opening

the door in between the partition wall of Shop No.4 and Shop No.5. The signature mentioned in the application/letter is forged and not of the complainant. It is further mentioned that the present applicant has given the said shop on rent claiming the shop to be his own on 15.07.2009. Based on the complaint lodged by Deendayal Agrawal, instant crime has been registered against the present applicant.

3. Shri Manoj Paranjpe, learned counsel for the applicant submits that the disputed shop along with other properties have been purchased or obtained from the authorities by Parmeshwari Lal Agrawal during his lifetime. Parmeshwari Lal Agrawal was survived by four sons, by name, Deendayal Agrawal (complainant), Ramkishan Agrawal, Kedarnath Agrawal and Shivshankar Agrawal (applicant). During the lifetime of their father, as per family settlement, properties were distributed to children. As per their settlement, Shop No.4 has fell in the share of present applicant. He further submits that later on, some family dispute arose between the parties, hence, applicant has filed civil suit before the jurisdictional Court for declaration of title and permanent injunction with respect to Shop No.4. Referring to paragraph-9 of the impugned order, he submits that it is the present applicant who is in possession of the said shop under the family settlement and he is doing his business in it since 1992. The complainant has also submitted written statement to the facts mentioned in the civil suit, which is pending consideration before the competent Court. The instant complaint has been made only

in the year 2021 making allegation that the present applicant has forged the signature of the complainant seeking permission for opening the entry in between two shops i.e. Shop No.4 and Shop No.5. It is contended that whether the signature is forged or not is still to be investigated by the prosecution and looking to the nature of allegation levelled against the present applicant making allegation of the said said to have been committed in the year 1992, present applicant is entitled for anticipatory bail.

4. Per contra, Shri Vimlesh Bajpai, learned Government Advocate representing the State vehemently opposes the bail application and submits that a written complaint is lodged making allegation that applicant by forging the signature of complainant has made an application before the competent authority, as such, there is an act of commission of offence under Sections 420 and 468 of the Indian Penal Code, hence, he is not entitled for grant of anticipatory bail.
5. I have heard learned counsel for the parties.
6. Taking into consideration entire facts and circumstances of the case, nature of allegations, particularly that the civil suit is filed between the applicant and complainant which is pending before the jurisdictional Court with respect to the disputed shop and further, there is no material available in the case diary as on date, with regard to status of the signature in the document dated 10.01.1992 (Annexure A/8), without commenting anything into the merits of the case, I am inclined to release the present applicant on anticipatory bail.

7. Accordingly, bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on anticipatory bail on his furnishing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like sum to the satisfaction of the arresting officer and he shall be abide by the following conditions :-

(i) he shall make himself available for interrogation by a police officer as and when required;

(ii) he shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer.

(iii) he shall not influence the witnesses during pendency of the trial.

Certified copy as per Rules.

Sd/-
(Parth Prateem Sahu)
Judge