NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 640 of 2021

- Shriram Pradhan, S/o Maheshwar Pradhan, age 45 years, Caste-Kolta, R/o Village- Lamkeni, Police Station-Basna, Tahsil- Saraipali, District Mahasamund, Chhattisgarh

---- Applicant

Versus

- State of Chhattisgarh Through Station House Officer, Police Station-Saraipali, District Mahasamund, Chhattisgarh

---- Respondent

For Applicant	:	Shri Malay Shrivastava, Advocate
For Respondent/State	:	Shri BP Banjare, Dy GA

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

20.07.2021

1. This is an application under Section 438 of CrPC for grant of anticipatory bail to the applicant as he apprehends his arrest in connection with Crime No.96 of 2021 registered at Police Station Saraipali, District-Mahasamund, Chhattisgarh for commission of offenses punishable under Sections 420, 467, 468, 471 and 34 of IPC.

2. Case of the prosecution, in brief, is that, complainants Vimal, Pramod, Pradhan and others have lodged a complaint to the Superintendent of Police, mentioning therein that by preparing forged documents of their land, present applicant has obtained KCC loan of Rs.3 lakhs from Punjab National Bank, Saraipali. Said complaint was forwarded to concerned Police Station on 02.02.2021. Police thereafter, investigated and found that by preparing forged Rinpustika (Kisan book) of Khasra No.191, measuring 0.440 hectares, applicant mortgaged land and has taken loan. In the said act, there is involvement of the

then Branch Manager and one KK Barik, Advocate by profession. Based on the investigation, offenses under Sections 420, 467, 468, 471 and 34 of IPC were registered against applicant and two others.

3. Anticipatory bail application filed before the Court below was rejected by impugned order.

4. Shri Malay Shrivastava, learned counsel for the applicant would submit that, applicant is not involved in commission of alleged crime. After getting knowledge of obtaining loan based on forged documents from Punjab National Bank in name of applicant, he himself filed an application on 26.10.2020 before the Station House Officer, Police Station, Basna against one Vrindavan Soni. In the complaint, it is mentioned that amount obtained on loan has already been remitted back and other agriculturists have not suffered any loss. He submits that complaint made by the applicant to the Police Station is much prior to the date of FIR, which is dated 15.03.2021. Applicant cannot foresight any allegation of the nature made against him prior to registration of FIR. Hence, it is apparent that it is someone else, who has committed the offense. It is further argued that co-accused, KK Barik, who prepared Form-C ie verification report and Advocate by profession has been enlarged on anticipatory bail vide order dated 12.04.2021. hence, present applicant may also be granted benefit under Section 438 of CrPC

5. On the other hand, Shri BP Banjare, learned counsel for the State opposing the submissions of learned counsel for the applicant, submits that case of co-accused Advocate KK Barik and present applicant cannot be placed on similar footing. He submits that in the order granting bail to co-accused, KK Barik, submission made by learned counsel therein appearing

for co-accused has submitted that it is the borrower Shriram Pradhan on the basis of forged documents obtained loan. He submits that complainant in this case has initially filed an application/complaint before the Sub-Division Officer (Revenue) based upon which, Revenue Officer wrote a letter to the Branch Manager, Punjab National Bank, Saraipali, as well as Patwari on 27.08.2020 asking for the records. More than one letter has been written to the Branch Manager of Bank for supplying all documents/records, and thereafter, SDO(Revenue) vide letter dated 24.09.2020, directed the Branch Manager for registration of FIR against Shriram Pradhan, S/o Maheshwar. In pursuance of letter of SDO(Revenue), Branch Manager sought instructions from higher authorities, Inspection and Audit department, Circle Office Raipur vide letter/application dated 20.10.2020 directed/advised to file FIR in compliance of order passed by the SDO(Revenue) and thereafter, vide letter/application dated 23.10.2020, Branch Manager of Bank requested Station House Officer to take action on his report. The submission by learned counsel for the applicant is not correct that applicant has filed the complaint first and thereafter, proceeding has been drawn against him. He further submits that Police has also seized loan application form for agriculture credit in name of applicant, wherein applicant's photograph is affixed along with the loan application form, copy of Voter ID card and Adhar Card are also enclosed. Both the documents are in name of Shriram Pradhan, S/o Maheshwar. Applicant is beneficiary , as such he is not entitled for benefit under Section 438 of CrPC.

6. I have heard learned counsel for the parties and also perused the case diary.

7. Perusal of case diary would show that original land owners have lodged complaint before the SDO(Revenue) with regard to preparation of forged Rinpustika and Revenue papers of their land in name of Shriram Pradhan, based upon which, SDO(Revenue) initiated proceeding and sought for records from Branch Manager, as well as Patwari vide letter dated 27.08.2020 and after preliminary enquiry, directed the Branch Manager to get FIR registered against the applicant vide letter 24.09.2020. Proceeding initiated against the applicant was much prior to his filing of complaint to concerned Police Station on 26.10.2020. The content of complaint Annexure-A2 made by the complainant and his statement before the Police does not reconcile but different facts have been mentioned. It is the applicant, who is beneficiary of obtaining loan of Rs.3 lakhs, based on forged and fabricated documents.

8. Considering the entirety of facts and circumstances of the case, nature of allegations, material available in case diary, particularly, the fact that along with application for loan, Photograph, Adharcard, Voter ID card of applicant, are also enclosed, I do not find it a fit case to enlarge the applicant on anticipatory bail. Accordingly, bail application is dismissed.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma