

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 683 of 2021**

Yakub Ahmad S/o Abdul Wahid Aged About 38 Years R/o M.I.G.- 63, Old Deendayal Colony, Nearby Shankaracharya College, Junwani Bhilai, Tahsil and District- Durg, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through- District- Magistrate Durg, District- Durg, Chhattisgarh.

---- Non-applicant

For Applicant : Shri T.K. Jha, Advocate

For Non-applicant/State : Shri B.P. Banjare, Dy. G.A.

(Proceedings through Video Conferencing)
Hon'ble Shri Justice Parth Prateem Sahu

Order on Board**19.07.2021**

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.705 of 2020 registered at Police Station Durg, District Durg, C.G., for offence punishable under Section 420/34 of Indian Penal Code.
2. Case of the prosecution is that, complainant has lodged a written report against Subechand, Yakub Khan, Raju Khan and Monu alias Arshad Hussain on 24.01.2020 mentioning therein that co-accused Monu alias Arshad Hussain has shown him plot bearing No.166 of Kharsa No.1704/1 situated at village Kohaka, P.H.N.19, Tahsil and District Durg. The complainant after looking to plot shown by Monu alias Arshad Hussain has given Rs.5,000/- as token advance and thereafter, on 05.02.2019, sale deed was

executed by co-accused Subechand in the office of Registrar. The complainant/purchaser handed over four cheques to Subechand, totaling the amount of Rs.12,50,000/- and prior to date of execution of sale deed also, complainant had handed over different cheques to Monu alias Arshad Hussain amounting to Rs.2,50,000/-. They have also taken money for the purpose of stamp duty and registration fee amounting to Rs.1,38,500/- and Rs.5,000/- towards new *wrin pustika*. After execution of sale deed, when complainant reached to plot purchased by him, he revealed that plot sold in his favour was of someone else. After getting knowledge, complainant again approached to Monu alias Arshad Hussain that they have committed forgery and cheated him, upon which, co-accused Monu alias Arshad Hussain stated that he will talk to his brothers, namely, Raju Khan and Yakub Khan (present applicant), thereafter, he has been intimated that there was change of plot number erroneously, for which, they will move an application before the office of Registrar for correction of sale deed, but even after filing of application, nothing has happened. Accused persons have taken Rs.16,92,350/- by cheating him. Based on the written complaint, instant crime was registered against Subechand, Yakub Khan, Raju Khan and Monu alias Arshad Hussain.

3. Shri T.K. Jha, learned counsel for the applicant submits that present applicant has not committed any offence, property/land is shown by co-accused Monu alias Arshad Hussain and sale deed was executed by Subechand. He further submits that there was

some typographical error in mentioning the number of plot, for which, application for correction is also filed. As Subechand was not having bank account on his name, therefore, cheque handed over by complainant to Subechand was deposited in the account of present applicant, hence, applicant may be enlarged on bail.

4. Per contra, Shri B.P. Banjare, learned Deputy Government Advocate representing the State vehemently opposes the bail application and submits that applicant in connivance with other co-accused persons cheated the complainant. There was no plot for sale in Khasra No.1704/1 in the name of Subechand. He further submits that during the course of investigation, police has collected the order of Additional Tahsildar, Bhilai Nagar, District Durg dated 29.05.2019 wherein Subechand (co-accused) has filed an objection in that revenue proceeding mentioning therein that taking benefit of his illiteracy and old age, land broker has got the sale deed executed by him. It is contended that applicant along with other persons have sold plots from same Khasra numbers to others also. It is further contended that present applicant is one of the main accused as the cheque issued by complainant towards sale consideration of land was deposited in his account, which is evident from statement of account of State Bank of India available in case diary, hence, he is not entitled for anticipatory bail.
5. I have heard learned counsel for the respective parties and perused the case diary.

6. Taking into consideration the nature of allegation levelled against the present applicant, order passed by Additional Tahsildar recording objection of Subechand (seller of land) in sale deed executed in favour of complainant, who stated that due to illiteracy and old age, land broker got sale deed executed under his signature and cheques given at the time of execution to sale deed to Subechand was deposited in the bank account of present applicant (which is not disputed by learned counsel for the applicant), I do not find it to be a fit case to enlarge the applicant on anticipatory bail.
7. Accordingly, anticipatory bail application is dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Anu