

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 488 of 2021**

1. Tisu Rana S/o Late Soni Lal Rana, Aged About 50 Years R/o Kududand, Ps Civil Lines, District Bilaspur Chhattisgarh
2. Jagatram Sahu, S/o Dukhi Ram Sahu, Aged About 51 Years R/o Mopka, Ps Sarkanda, District Bilaspur Chhattisgarh

---- Applicants**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Civil Lines, District Bilaspur Chhattisgarh

---- Respondent**MCRC No. 4402 of 2021**

- Amoli Dhruv S/o Baisakhu Aged About 60 Years C/o Bahorik Marai, S/o Tijau Marai, Aged About 55 Years, R/o Village Chinchapur, Post Badra, Police Station Pathariya, Tahsil Sargaon, District Mungeli Chhattisgarh

---- Applicant**Versus**

- State Of Chhattisgarh Through The Station House Officer, Police Station Civil Lines, District Bilaspur Chhattisgarh

---- Respondent

For Applicants in M.Cr.C.A. No.488/2021 : Shri B.D. Guru, Advocate

For Applicant in M.Cr.C. No.4402/2021 : Shri Vivek Kumar Shrivastava, Advocate

For Respondents/State : Shri Ashish Tiwari, GA

For Objector : Shri Devershi Thakur, Advocate

Hon'ble Shri Justice Goutam Bhaduri**Order**

30/07/2021

1. Since both these bail applications are arising out of the same crime number, therefore, they are being heard and decided together by this common order.
2. M.Cr.C.A. No.488 of 2021 is the application under Section 438 of the Code of Criminal Procedure has been filed by the applicants apprehending their arrest in connection with Crime No. 289/2021 registered at Police Station Civil Lines, District Bilaspur for the offence punishable under Section 420/34 of the Indian Penal Code.
3. M.Cr.C. No.4402 of 2021 is the First Bail Application filed under Section 439 of the Code of Criminal Procedure for grant of regular bail to the applicant who has been arrested on 07.03.2021 in connection with Crime No. 289/2021 registered at Police Station Civil Lines, District Bilaspur (CG) for the offence punishable under Section 420/34 of the Indian Penal Code.
4. As per the prosecution case, a report was made by one Sanjeet Kumar Minj that an agreement to purchase land bearing Khasra No.1872 and Khasra No.1852/1 at Mauja Mopka, which was recorded in the name of Amoli Dhruv. The agreement was executed to sell the said land and the advance was received instead the said land was sold to some third party on the basis of Power of Attorney and 14 registries were made till 2019. Thereby the offence has been committed by Amoli Dhruv and Tisu Rana and Jagatram Sahu were instrumental to execute such sale deed.
5. Learned counsel for the applicants Tisu Rana and Jagatram Sahu would submit that it is a case of civil nature that if after agreement the sale deed has not been

executed then in such case the complainant should have filed civil suit instead the criminal complaint has been filed, therefore, the applicants Tisu Rana and Jagatram Sahu who are not connected as owner/purchaser of land may be given the benefit of anticipatory bail.

6. Learned counsel for the applicant Amoli Dhruv would submit that Amoli Dhruv is an illiterate person and a tribal and was engaged as daily wage labour by Tisu Rana and Jagatram Sahu, in whose name Tisu Rana and Jagat Ram have purchased certain land. Subsequently to sell the same received certain advance from Sanjeet Kumar Minj and thereafter sold it on the basis of Power of Attorney to difference persons and 14 registries were executed. He would further submit that the applicant Amoli Dhruv has been arrested on 07.03.2021 and the evidence and the memorandum would show that he is not the beneficiary instead the entire transaction was carried out by Tisu Rana and Jagatram Sahu and he has been made an scapegoat, therefore, the interrogation of Tisu Rana and Jagatram Sahu would be required to find out the nature of transaction and his client who is in jail since 07.03.2021, no further investigation is needed and he may be enlarged on bail.
7. Learned counsel for the objector and learned State counsel oppose the prayer for grant of bail. They would submit that Tisu Rana and Jagatram Sahu have mainly hatched the conspiracy to cheat the complainant Sanjeet Kumar Minj and also another person Amoli Dhruv, who is a land less person and on the basis of power of attorney of an illiterate person the entire transaction is carried out. Therefore, the applicants may not be allowed the benefit of bail and apart from that the Scheduled Caste & Scheduled Tribe (Prevention of Atrocities) Act,

1989 is also attracted.

8. Having considered the submission that the applicant Amoli Dhruv is in jail since 07.03.2021 and after perusal of the memorandum and the documents and also taking into consideration that the investigation and the recovery from Amoli Dhruv has already been made, I am inclined to release the applicant Amoli Dhruv on bail.
9. In respect of Tisu Rana and Jagatram Sahu the nature of allegation attributed and it is to be investigated whether Amoli Dhruv is also one of the victims or not, who belongs to S.C. & S.T. community. In such eventuality bar of Section 18 of the Act, 1989 would be applicable, therefore, this needs to be investigated. Accordingly, under these circumstances, I do not find it a fit case to extend the benefit of anticipatory bail.
10. In a result, the anticipatory bail application bearing M.Cr.C.A No.488/2021 is dismissed and M.Cr.C. No.4402 of 2021 is allowed.
11. Accordingly, the bail application M.Cr.C. No.4402 of 2021 is allowed and the applicant Amoli Dhruv is directed to be released on bail on his executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the trial Court. He is directed to appear before the trial Court on each and every date given by the said Court.

Sd/-

Goutam Bhaduri
Judge

Ashu