

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 853 of 2021**

- Sachin Kadam S/o Shri Rajendra Rao Kadam Aged About 41 Years R/o A-Radhika Vihar, Seepat Road, Sarkanda District Bilaspur Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through District Magistrate Bilaspur District Bilaspur Chhattisgarh Arising Out Of Crime Number 758 Of 2021 Of Police Station Sarkanda District Bilaspur Chhattisgarh

---- Respondent

For Applicant	: Shri RS Marhas, Advocate
For Respondent/State	: Shri BP Banjare, Dy GA

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

02.08.2021

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. 758 of 2021 registered at Police Station Sarkanda, District Bilaspur, Chhattisgarh for commission of offense punishable under Section 420 rw 34 of IPC.
2. Case of the prosecution, in brief, is that, complainant Shiv Kumar Gupta has lodged a written complaint on 29.06.2021 making allegation against one Sharda Dubey, Dinesh Gupta and present applicant that present applicant informed him that there was residential plotting at Bahtarai and based on the information, he went to the spot and shown his desire to purchase particular plot. Thereupon, sale deed was executed on 24.03.2011 by Sharda Dubey in the name of wife of complainant ie Renu Gupta. Complainant used to visit the plot purchased by him from time to time. After some time, he revealed that plot purchase by him was of Hari Bhoomi Press and land owned by Sharda Dubey was much behind, where there was no approach road. Complainant approached Sharda Dubey and present applicant and asked for refund of money, but they did not return the

amount. Shiv Kumar Gupta made a written complaint. Based on written complaint, instant crime was registered against Sharda Dubey, executor of sale deed, Dinesh Gupta, and present applicant.

3. Applicant, apprehending his arrest, filed this anticipatory bail application after rejection of his application by the Court below.

4. Shri RS Marhas, learned counsel for the applicant submits that present applicant was doing work of land broker. Upon getting knowledge of residential plotting at Bahatarai, he intimated to Complainant-Shiv Kumar Gupta. He, after visiting the site, had finalised to purchase one of the plot and thereafter, sale deed was executed by Sharda Dubey, who was recorded owner of that land. Sale deed was executed on 24.03.2011. After execution of sale deed, even name of purchaser of land Renu Gupta was mutated in revenue records. Applicant is not witness to the sale deed but is a mediator and nothing more. Land was pre-owned by Sharda Dubey, and amount of sale consideration was also paid to Sharda Dubey by the complainant. Applicant will cooperate with investigation and looking to nature of allegations against applicant, he may be enlarged on bail 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 Sharda Dubey who executed sale deed of land was not his own land. As per allegation, site was behind the piece of land, which was sold to Renu Gupta. When complainant approached applicant and co-accused persons, for refund of money, they did not refund the money to the complainant. Further, upon putting specific query to learned counsel for the State with

regard to status of ownership in Revenue record of land sold to complainant at the time of execution of sale deed he submits that as per the allegation made in complaint itself, the statement and FIR, complainant has stated that after purchasing of land through registered sale deed, name of his wife was mutated in Revenue record.

6. I have heard learned counsel for the parties.

7. Taking into consideration nature of allegations levelled against the applicant, and further that after registration of sale deed on 24.03.2011, name of purchaser of land ie Renu Gupta, name of wife of complainant has been also recorded in Revenue records, dispute took place only after measuring of area by the Revenue Officer upon which land was found to be of Haribhoomi Press, without commenting anything on merits of case, I am inclined to grant anticipatory bail to the applicant.

8. Accordingly, the application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question, he shall be released on anticipatory bail by the Officer arresting him on his executing a personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicant shall also abide by the following conditions:

- a) That the applicant shall make himself available for interrogation before the Investigating Officer as and when required;
- b) That the applicant 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/her from disclosing such facts to the Court or to any Police Officer;

c) That the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

d) That the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma