

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC (A) No.840 of 2021**

Harishankar Bhosley, Aged about 72 years S/o Late Shri Lalji Rao Bhosley, residence of Village- Tilkeja P.S. Urga Tahsil and District Korba (C.G.)

---- Applicant**Versus**

State of Chhattisgarh Through Police Station Shiorinarayan District Janjgir-Champa (C.G.)

--- Respondent

For Applicant	: Mr. Avinash K. Mishra, Advocate.
For Respondent-State	: Mr. B.P. Banjare, Dy GA.

(Proceedings through video conferencing)**Hon'ble Shri Justice Parth Prateem Sahu****Order on Board****31/08/2021**

Heard.

1. The applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.116/2021 registered at Police Station –Shiorinarayan, District Janjgir-Champa, (CG) for the offence punishable under Section 420, 34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 05/03/2021 a report was lodged to the concerned police station by Ravindra Rao Jadhav mentioning therein that he was the owner of the land bearing Khasarana No. 740, 789 and 828 total area 3.23 acres which is his ancestral property. Co-accused Ravindra Rao Bhosley in connivance with the present applicant sold the land in favour of Natwar Lal Agrawal and Ramesh Kumar Agrawal vide sale deed dated 09/05/2006. Based on the written report, the instant crime has been registered against the present applicant and three other co-accused persons namely Ramesh Kumar Agrawal, Ravindra Rao Bhosley and Natwar Lal Agrawal.
3. Learned counsel for the applicant would submit that the present applicant is relative (Samdhi) of co-accused Ravindra Rao Bhosley. It is co-

accused Ravindra Rao Bhosley who had executed the power of attorney in favour of the present applicant on 11/04/2006 in the office of Tikam Sao, Advocate. The applicant believed upon the words of co-accused Ravindra Rao Bhosley being relative and on the basis of power of attorney executed by him, he executed the sale deed in favour of Ramesh Kumar Agrawal and Natwar Lal Agrawal. The applicant has not committed any offence as alleged against him. He is not a beneficiary in any manner of the sale transaction. He would argue that all the co-accused persons namely Ramesh Kumar Agrawal, Ravindra Rao Bhosley and Natwar Lal Agrawal have been enlarged on bail. The purchasers of the land have been benefited by anticipatory bail filed under Section 438 of the Cr.P.C and co-accused Ravindra Rao Bhosley has been enlarged on regular bail passed in MCRC No. 2882/2021. He would further submit that charge-sheet has been filed after investigation, custodial interrogation of applicant is not required, applicant is an old aged person aged about 72 years and looking to the Covid-19 pandemic situation, he may be enlarged on bail. He submits that the applicant will participate in the proceeding before the Investigating Agency and will also appear before the trial Court as and when required and directed.

4. Learned State Counsel opposes the submissions made by learned counsel for the applicant and submits that it is present applicant who on the basis of power of attorney, had executed the sale deed in favour of the purchasers, Ramesh Kumar Agrawal and Natwar Lal Agrawal. He also pointed out that witness Devnarayan has stated that he is resident of the village of the present applicant, on his say, he signed the blank stamp paper as witness. He further read over the statements of Tikam Sao, Advocate, one Sanju Jaiswal, Stamp Vendor and Kilaram,

Document Writer and submits that Sanju Jaiswal has sold the stamp on 11/04/2006 to Ravindra Rao Bhosley for execution of power of attorney. Referring to the statement of Kilaram, he submits that this witness has drafted the sale deed executed in favour of the purchasers of the land and Tikam Sao had prepared the power of attorney. He submits that the applicant is main accused. Co-accused Ravindra Rao Bhosley has been enlarged on regular bail, hence, the applicant is not entitled to get benefit of Section 438 of the Cr.P.C.

5. I have heard learned counsel for the parties.
6. Taking into consideration the nature of allegation against the applicant and the material collected by the police during investigation, wherein it has come out that co-accused Ravindra Rao Bhosley has purchased the stamp, approached to Tikam Sao for preparation of power of attorney in favour of the present applicant, other co-accused persons have been enlarged on bail, as also looking to the age of the applicant and the present situation of Covid-19 Pandemic, without commenting anything on merits of this case, I am inclined to grant anticipatory bail to applicant.
7. Accordingly, the anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with crime in question, he shall be released on bail by the officer arresting him on executing a personal bond in sum of Rs.25,000/- with one surety in the like sum to the satisfaction of the concerned Arresting Officer. The applicant shall also abide by the following conditions :

- (i) that applicant shall make himself available for interrogation before the investigating officer as and when required;
- (ii) that 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 from disclosing such

facts to the Court or to any police officer;

(iii) that applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

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

Sd/-

(Parth Prateem Sahu)
Judge

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