

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC (A) No.868 of 2021

Rajeev Mahule S/o Bhuneshwar Mahule, Aged About 57 Years, R/o Sector 1, Street No. 2, Quarter No. 15 (B), Bhilai - District – Durg, (Chhattisgarh).

---- Applicant

Versus

State of Chhattisgarh Through The Station House Officer, Police Station - Dongargarh, District -Rajnandgaon, (Chhattisgarh).

--- Respondent

For Applicant	: Mr. Awadh Tripathi, Advocate.
For Respondent-State	: Mr. B.P. Banjare, Dy GA.

(Proceedings through video conferencing)
Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

27/08/2021

Heard.

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.334/2021 registered at Police Station –Dongargarh, District -Rajnandgaon, (CG), for the offence punishable under Section 420, 34 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that written report was lodged on 22.02.2020 by Rajneesh Sharma mentioning therein that he is having ancestral property bearing plot No.2124/5 measuring area about 4384 Sq.ft, situated at Ward No.9, Dongargarh, owned by Bhavuram who died in the year 1989. By submitting forged consent deeds, applicant in collusion with Tahsildar got his name mutated in revenue record. Order of mutation passed by Tahsildar was challenged before Sub-Divisional Officer which was allowed and order of mutation of Tahsildar was set aside vide order dated 28.09.2007. Applicant sold ancestral property on 08.03.2016 to Harpal Singh, Sarabjeet Singh and Harmindarpal Singh. Applicant on the basis of fraudulent consent deeds got his name mutated and sold the land, thereby cheated complainant. Based upon written

report, FIR is registered against applicant.

3. Learned counsel for the applicant submits that applicant is an employee of Bhilai Steel Plant, he is grandson of Bhavuram and son of Bhuvneshwar. Bhavuram died on 11.04.1984, he was survived by four heirs namely Aloopi Prasad Sharma, Rameshwar Prasad Mahule, Bhuvneshwar Prasad Mahule and one daughter Rajeshwari. As father of applicant is maintaining house/property alone, other co-owners have executed consent deeds on 26.10.2005, 27.10.2005, which were duly notarized, mentioning that they are having no objection if their names are deleted from revenue records. Based on consent deeds signed by co-owners, applicant moved an application before Court of Tahsildar under Section 110 of CG land Revenue Court for mutation. Tahsildar after completion of proceedings, passed an order of mutation of name of applicant in revenue records on 28.09.2007. Based on the order of Tahsildar name of applicant was mutated. After mutation of name, applicant sold the land in the year 2016. He was not aware about filing of appeal before SDO challenging order of Tahsildar and in his absence, order of Tahsildar was set aside by SDO vide order dated 24.09.2009. Even after passing an order by SDO and setting aside the order of Tahsildar revenue records were not corrected and name of applicant continued to be owner of disputed property, therefore, applicant has sold the land in the year 2016. Applicant has not committed any offence as alleged against him. He further submits that applicant in support of his case has placed on record consent deeds executed in favour of applicant.
4. Learned State Counsel opposes the submissions made by learned counsel for the applicant and submits that applicant by placing fraudulent

consent deed has filed an application for mutation of his name and on the basis of consent deeds, his name was mutated. He also submits that immediately after passing of order of mutation by Tahsildar, mother of applicant preferred an appeal before SDO, who after considering the grounds raised in appeal, allowed the same and set aside order of Tahsildar. Applicant even after setting aside order of Tahsildar has knowingly sold the property in the year 2016. The act of applicant clearly shows that applicant has committed the offence as alleged against him. In support of his contentions, he read over statement of Manish Sharma and contents of FIR as also complaint. However, he do not dispute that in the statement of Manish Sharma recorded under Section 161 of Cr.P.C it is mentioned that applicant got consent deed executed by keeping them in dark saying that it is for taking care of property. Complainant has not signed any consent deed in favour of applicant.

5. Heard learned counsel for the parties.
6. Considering the entire facts and circumstances of the case, nature of allegation, the fact that some co-owners in their statements recorded under Section 161 of Cr.P.C have admitted that they have signed the documents ie 'consent deed' and even allegation in FIR is that applicant has obtained signature of parties by keeping them in dark, name of applicant continued to be recorded owner in revenue record till he sold the land in the year 2016, without commenting anything on merits of this case, I am inclined to grant anticipatory bail to applicant.
7. Accordingly, 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. 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

Jamal/-