

NAFR

HIGH COURT of CHHATTISGARH, BILASPUR**MCRCA No. 943 of 2021**

- R.N. Tiwari S/o Late S.P. Tiwari aged about 62 Years R/o Gulab Nagar, Mopka Police Station Sarkanda Tahsil and District Bilaspur Chhattisgarh.

-----Applicant**VERSUS**

- State of Chhattisgarh through: the Police Station Sarkanda, District Bilaspur Chhattisgarh

-----Non-applicant

For Applicant	: Mr. Amit Kumar, Advocate
For Non-applicant- State	: Mr. Shrikant Kaushik, Panel Lawyer.
For objector	: Mr. Sharad Chandel, Advocate

Hon'ble Shri Parth Prateem Sahu, Judge**ORDER ON BOARD****04/10/2021**

1. Applicant has preferred this application under Section 438 of CrPC for grant of anticipatory bail as he apprehends his arrest in connection with Crime No. 860/2021 registered at Police Station Sarkanda, District Bilaspur (C.G.) for the offence punishable under Section 420/34 of IPC.
2. Case of the prosecution in brief, is that, the applicant who is known to complainant approached him stating that he wanted to sell lands bearing khasra No. 15/86 measuring 1200 sqft situated at village-Lingiadih and khasra number 798/4 measuring about 0.51 acres situated at village-Mopka. Complainant, after visiting the spot, agreed to purchase land and initially made advance payment of Rs. 5 Lakh in the year 2009 to the applicant in presence of witness. On 21.07.2010 complainant entered into written agreement with Vimlesh Pandey, sister of applicant, for purchase of land situated at khasra number

798/4 situated at village Mopka and thereafter on 21.07.2019 entered into written agreement with Anita Tiwari, wife of applicant, to purchase land bearing khasra number 15/86 situated at village-Lingiadih and paid Rs. 32 Lakhs and Rs. 25 Lakhs as advance for pieces of land. After sometime, complainant revealed that the lands which were shown to him were disputed lands, hence, complainant has shown his unwillingness to purchase those properties. Applicant stated that he has invested the amount in some other land, he would return back the amount with interest after sometime to which the complainant agreed. Even after lapse of time, applicant and other co-accused persons have not returned the money to complainant. Thereafter, amount of Rs. 54 Lakhs has been returned to complainant but the balance amount was not returned. Based on the complaint, instant crime was registered against applicant and two other co-accused persons who are sister and the wife of applicant.

3. Mr. Amit Kumar, learned counsel for the applicant would submit that applicant was not aware with regard to dispute over the lands. When complainant shown his unwillingness to purchase the property, major part of amount of Rs. 54 Lakhs has been returned back to him prior to lodging of complaint and out of the balance amount of Rs. 13 Lakhs, 3 lakhs has been paid to complainant during the pendency of this bail application. He submits that the balance amount will also be returned back to complainant within the shortest period. Hence, he may be enlarged on anticipatory bail.
4. On the other hand, Mr. Shrikant Kaushik, learned State counsel and Mr. Sharad Chandel, learned counsel for complainant submit that the complainant has paid his hard earned money to applicant for purchase of land and when the property has been found to be

disputed, complainant has shown his unwillingness to purchase the same and out of Rs. 67 Lakhs, only 54 Lakhs has been returned back to complainant prior to filing of report. He submits that applicant was aware of the fact of dispute, therefore, he cheated him and after refusal to purchase the property, not returned the entire amount paid to him. However, upon asking, learned counsel for objector submits that complainant received further amount of Rs. 3 Lakhs.

5. I have heard learned counsel for the respective parties.
6. Taking into consideration, nature of allegations, the fact that out of Rs. 67 Lakhs, applicant has returned back Rs. 54 Lakh prior to registration of complaint and out of the balance amount of Rs. 13 Lakhs, 3 lakhs has been paid during the pendency of this bail application and applicant is willing to return back the balance amount, without commenting anything on merits of the case, I am inclined to allow the bail application.
7. Accordingly, application is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question (860/2021), 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/- 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 the applicant shall make himself available for interrogation before the Investigation Officer as and when required;
 - (ii) 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;

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

Sd/-
(Parth Prateem Sahu)
Judge

Pawan