

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No.1272 of 2020

Rajendra Kumar Pateria S/o Late G.S. Pateria, Aged About 52 Years R/o Qr. No. H-18, Irrigation Colony, Rampur Korba, Thana Rampur, District Korba Chhattisgarh, District : Korba, Chhattisgarh

---- Applicant

Versus

State Of Chhattisgarh Through Police Chouki Rampur, Thana Kotwali, District Korba Chhattisgarh, District : Korba, Chhattisgarh

---- Respondent

For Applicant	:	Dr. N.K. Shukla, Senior Advocate with Shri Arjit Tiwari, Advocate
For State	:	Shri Lalit Jangde, Dy. Govt. Advocate
For Objector	:	Shri Sanjay Patel, Advocate

S.B. Hon'ble Shri Justice Manindra Mohan Shrivastava

Order On Board

18/02/2021

Heard.

1. The applicant has filed this application for grant of anticipatory bail under Section 438 Cr.P.C. as he is apprehending his arrest in connection with Crime No. 673/2020, registered at Police Chowki-Rampur, Thana- Kotwali, District- Korba (C.G.) for the offence punishable under Sections 420, 406 IPC.
2. Case of the prosecution, in brief, is that the applicant had assured the complainant that he would get necessary revenue certification, measurement, demarcation of the plot under sale with some other person arranged as he is having high connection with revenue officials and on such

assurance, Rs.20/- lakhs was collected by the applicant from the complainant and thus he cheated the complainant. It is also the case of the prosecution that out of Rs.20 lakhs, some amount was entrusted for being paid to the official, but instead of giving it to official, the applicant misappropriated the same.

3. Learned counsel for the applicant would argue that present is a case of false implication on account of various disputes pending amongst the applicant, one Shankar Rao, the seller and the intending purchaser and the complainant- Rajesh Jaiswal is one of the intending purchaser. Learned counsel for the applicant would submit that in respect of the land for which the agreement is alleged to have made, was subject matter of sale and purchase between Mahavir and number of persons on one side and complainant- Rajesh Jaiswal on the other and an agreement was executed on 13.2.2019, under which, Rajesh and other intending purchaser collected huge amount from the intending seller and later on, Rajesh along with some other, obtained Power of Attorney to sell, but the sale had actually not taken place. The applicant had given Rs.10 lakhs to Shankar Rao and he became partner in business with Shankar Rao. Applicant entered into dispute with Shankar. In course of time, the applicant and intending seller who had received cheques from complainant Rajesh and others, submitted cheques for being honoured in Bank which was dishonoured, due to which, the intending seller Malik Ram lodged criminal case under Section 138 of the Negotiable Instruments Act that the cheques given by Rajesh had bounced. A settlement had later on taken place. The applicant also filed written report in the police station on 22.6.2020 alleging that Shankar had collected huge amount of Rs.10 lakhs from him but the benefit are not being extended to him. Learned counsel for the applicant would submit that the complainant Rajesh has lodged report against the applicant towards settlement of certain claimed amount arising out of transaction of sale and purchase of land with other persons stating that the applicant was paid amount of Rs.20 lakhs, whereas the sale consideration itself was Rs.24 lakhs. There is no acknowledgment receipt much less any written acknowledgment of payment of Rs.20 lakhs. No proof of withdrawal of such

huge amount from the Bank account of the complainant or any of his associate has been submitted. It is also submitted that the applicant has filed writ petition praying for quashing of entire criminal proceedings on such ground and additional grounds also. Therefore, in these circumstances, the applicant prays for grant of bail on the ground that present is a case of false implication for realization of certain claimed amount under disputed transaction relating to sale and purchase of the land by the complainant from third parties.

4. On the other hand, learned counsel for the State and counsel for the Objector submit that the story as developed by the applicant has nothing to do with the present case. It is submitted that the present applicant had taken Rs.20 lakhs from the complainant by assuring that he will get completed various revenue proceedings in respect of the land such as preparation of spot map, demarcation and possession. Despite having received such a huge amount, the applicant did not do anything despite repeated requests and later on, when the complainant requested for return of the amount, it was not returned, therefore, prima facie case of cheating is made out. It is also submitted that during investigation, the chat account sent from the mobile of the complainant- Rajesh to applicant Rajendra as well as phone call records between applicant- Rajendra, Shankar Rao, Vikash, Mukesh and other persons have been collected, which, prima facie, show that the applicant had involvement in the matter of various proceedings concerning the land which was purchased under an agreement by Shankar and co-purchaser from seller Malik Ram Patel and other in which Shankar Rao was also one of the witness. It is also submitted that Shankar, in his case diary statement, has supported the case of the complainant regarding payment of money to the present applicant.
5. I have heard learned counsel for the respective parties.
6. On prima facie consideration, it appears that a land bearing khasra number 685/1 admeasuring 0.263 hectare in P.H. No.40- Tifra was subject matter of sale and purchase between Malik and others on one hand and complainant Rajesh on the other. Applicant has claimed that under an agreement dated

13.2.2019, intending seller and purchaser had agreed for sale of the land and under which Rs.12 lakh was earlier given and remaining at the time of agreement, totling Rs.24 lakh and, thereafter, a power of attorney was executed in favour of Rajesh, Vikash Singh and Farid Khan. However, none of the parties has stated that finally a registered sale deed was also executed. It is also reflected that a complaint was filed by Malik Ram Patel, the intending purchaser against complainant Rajesh Jaiswal that the cheque given by him had bounced but later on that case was settled. The applicant has also placed on record a copy of agreement between present applicant and Shankar Rao and the details of Bank transactions under which in the month of March 2019, the applicant paid Rs.10 lakh to Shankar Rao. There is no documentary evidence of payment of money to the applicant by the complainant- Rajesh Jaiswal nor is there any acknowledgment of receipt. Further, this Court also prima facie finds that the mobile chats are unilateral and there is nothing to show that present applicant admitted having received that amount. Call records shows some kind of transaction going on between the present applicant and some other person. The applicant has also filed writ petition in the Court, which is still pending. Therefore, without commenting upon further on the merits of the case, taking into consideration the various factual aspects and particularly taking into consideration that the complainant has not come out with any documentary evidence of payment of Rs.20 lakh to the present applicant and the land in respect of which various proceedings are said to have been assured itself costs Rs. 24 lakhs, possibility of false implication cannot be ruled out. Therefore, present is a fit case for grant of anticipatory bail to the applicant.

7. Accordingly, this application is allowed. It is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on bail on his furnishing a personal bond in the sum of Rs.25,000/- along with two local sureties for the like amount to the satisfaction of the arresting officer and he shall abide by all the following terms and conditions: -

- (i) the applicant shall make himself available for

interrogation by the police officer as and when required;

(ii) 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 from disclosing such facts to the Court or to any police officer;

Certified copy as per rules.

Sd/-
(Manindra Mohan Shrivastava)
Judge