

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
MCRC (A) No. 969 of 2021

Arvind S/o Late Jagdev Prasad, Aged About 47 Years, R/o -Ward No. 09,
 Ghutri Dafai, Charcha, P.S -Charcha, District -Koriya, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through S.H.O. Police Station -Baikunthpur, District
 Koriya, Chhattisgarh.

--- Respondent

For Applicant	:	Mr. Pushkar Sinha, Advocate.
For Respondent-State	:	Mr. Roshan Dubey, PL.

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

26/08/2021

Heard.

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.134/2021 registered at Police Station –Baikunthpur, District - Koriya, (CG), for the offence punishable under Sections 420 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that complainant entered into an agreement to sell on 10.07.2020 for purchase of land measuring 0.020 hectares, out of land measuring 0.219 hectares of Khasra No.857 situated in village Odgi, Tahsil -Baikunthpur, Distt Koriya. Complainant has paid the entire sale consideration of Rs.12 lacs in installments before entering into agreement to sell. After execution of sale agreement and accepting sale consideration, applicant has not executed the sale deed as he was not owning the land in his name on the date of entering into agreement to sell, thereby complainant was cheated. It is further alleged that for returning of amount of Rs.12 lacs applicant has issued a cheque in favour of complainant, which was dishonoured. Based on written complaint, FIR is registered against applicant for the offences as

mentioned above.

3. Learned counsel for the applicant submits that on the date of making payment of advance before execution of an agreement to sell, complainant was well aware that land was not recorded in name of applicant and it was recorded in the name of his grandmother. She was also aware about pendency of mutation case before the Revenue Authority concerned, therefore, in para No.3 of agreement to sell dated 10.07.2020, it is clearly mentioned that sale deed would be executed only after getting mutation of name of applicant in revenue record. He further submits that delay in mutation of name of applicant was on account of claim of one Chandravati based on Will. **Chandravati** got her name mutated based on the will without noticing the applicant. The mutation was challenged before Appellate Authority, who allowed appeal of applicant and mutation of name of Chandravati was set aside. In support of his contention, he referred to the order passed by the Additional Commissioner, Surguja, Division, Ambikapur dated 02.05.2017. It is contended that applicant has not committed any offence as alleged against him, hence, he may be enlarged on anticipatory bail.
4. Learned State Counsel opposes the submissions made by learned counsel for the applicant and submits that prior to agreement to sell dated 10.07.2020 with complainant, applicant has entered into agreement to sell with one Ghanshyam Das for consideration of Rs.4 lacs. He read over contents of complaint in support of his contention. However, he does not dispute contents of para No.3 of agreement to sell dated 10.07.2020 that there is mention of execution of the sale deed will be only after getting name of applicant mutated in revenue record.
5. Heard learned counsel for the parties.

6. Considering the entire facts and circumstances of the case, nature of allegation, the fact that in agreement to sell executed between applicant and complainant on 10.07.2020, which is the basis for lodging of complaint, there is mention that sale deed would be executed only after mutation of name of applicant in revenue record, case for mutation is pending before Revenue Court, 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/-