

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRC No. 6745 of 2021

1. Rameshar Nishad S/o Sunhar, Aged About 46 Years R/o Rajapara, Chhura , Police Station Chhura, District Gariyaband Chhattisgarh
2. Nateshwar Naidu S/o Late G.P. Naidu Aged About 38 Years R/o Rajapara, Chhura, Police Station Chhura, District Gariyaband Chhattisgarh

---- Applicants (On Temporary Bail)

Versus

- State of Chhattisgarh Through Police Station Chhura, District Gariyaband Chhattisgarh

---- Respondent

For Applicants	: Shri Manoj Paranjpe, Advocate
For Respondent/State	: Shri Dinesh Tiwari, PL
For Objector/Complainant	: Shri Lukesh Kumar Mishra, Advocate

Hon'ble Shri Justice Parth Prateem Sahu

Order on Board

13.12.2021

1. After arguing for some time, learned counsel for the applicants seeks permission of this Court to withdraw bail application with respect to Applicant- 2, Nateshwar Naidu at this stage, with liberty to revive the same at appropriate stage.

2. In view of submission made by learned counsel for the applicants, application so far as it concerned to Applicant- 2 is dismissed as withdrawn with aforementioned liberty.

3. Heard bail application of Applicant-1 Rameshar Nishad. He has preferred this application under Section 439 of CrPC for grant of regular bail as he was arrested in connection with Crime No.65 of 2021 registered at Police Station Chhura, District Gariyaband, Chhattisgarh for the offence punishable under Sections 420, 466, 468, 471 and 34 of the IPC.

4. Case of the prosecution, in brief, is that, applicants executed a sale deed on 28.04.2014 of land bearing Khasra No.121, 0.03 Hectares, situated in village Chhura, District- Gariyaband. After examination of registered sale deed, name of complainants was mutated in Revenue record. When complainants were raising construction of boundary wall over the aforementioned land, Tahsildar issued notice of encroachment and then, they came to know that land which was sold to them, was Government land. After verifying possession of land, complainants have lodged a written complaint in concerned Police Station on 29.05.2021. Applicants were arrested on 16.06.2021.

5. Shri Manoj Paranjpe, learned counsel for the applicant would submit that applicant- Rameshar Nishad and his brother were in possession of land since long. Applicant-1 is a poor villager, he is in jail since 16.06.2021. He executed the registered sale deed of the land on which he was in possession. Offence is triable by Judicial Magistrate, First Class. Charge-sheet has already been filed but charges against applicant were not framed till date and the trial may take some time. Hence, he may be enlarged on bail.

6. Shri Dinesh Tiwari, learned State counsel opposing the submissions of learned counsel for the applicant, submits that applicant-1 is well aware that he is in possession of government land, but even then, executed the sale deed in favour of complainants and thereby, complainants have been cheated. Applicant is not entitled for regular bail.

7. Shri Lukesh Mishra, learned counsel for the Objector /complainant adopting the submissions of learned State counsel, submits that applicant in connivance with other co-accused persons, cheated complainants and sold government land to them after taking Rs.52,000/- from them. Hence, applicant is not entitled for regular bail.

8. I have heard learned counsel for the parties.

9. Taking into consideration nature of allegations, submissions made by learned counsel for the parties, further that, applicant is a poor villager, there is no criminal antecedents registered against him, Offence to be triable by Judicial Magistrate First Class, trial may take some time, and period of pre-trial detention, without commenting anything on merits of the case, I am inclined to enlarge **applicant-1 Rameshar Nishad** on bail.

10. Accordingly, the bail application so far as concerned to **applicant- 1 Rameshar Nishad** is allowed. It is directed that the applicant shall be released on regular bail upon furnishing personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one local surety in the like sum to the satisfaction of the concerned Court on the condition that:

- a) Applicant shall appear before the Trial Court regularly on each and every date, unless exempted from appearance.
- b) Applicant shall not in any manner, tamper with the prosecution witnesses.
- c) If the applicant is found involved in similar offence in future, it will be open for the State to apply for cancellation of bail.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE