

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1123 of 2021**

1. Ramesh Dutt Nagariya S/o Mangal Das Nagariya, Aged About 79 Years,
 2. Smt. Karuna Nagariya W/o Dr. Ramesh Dutt Nagariya, Aged About 70 Years,
- Both R/o Radhakrishna Ward No. 11, Police Station and Tahsil Kawardha, District Kabirdham Chhattisgarh.

---- Applicants**Versus**

State of Chhattisgarh, Through District Magistrate Kawardha,
District Kabirdham Chhattisgarh.

---- Non-applicant

For Applicants : Shri H.B. Agrawal, Senior Advocate
with Shri Pankaj Agrawal, Advocate

For Non-applicant/State : Shri B.L. Sahu, P.L.

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****16.09.2021**

1. The applicants have preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as they are apprehending their arrest in connection with Crime No.670 of 2021, registered at Police Station Kawardha District Kabirdham (C.G.), for offence punishable under Sections 420, 467, 468, 471, 34 of Indian Penal Code.
2. Case of the prosecution in brief, is that, on 17.08.2021, Abdul Razzaq lodged a report before the concerned Police Station making allegations that on 31.10.2020, when he saw Dr. Akhil Gupta raising construction on the land, which is the land owned by complainant raised objection, upon which, Dr. Akhil Gupta stated

that he has purchased the land from the applicants. Complainant thereafter obtained the documents of the land and found that applicants have purchased land about 69 Decimals from other persons but have sold the land about 70 Decimals to 17 persons and also left some portion of land for the purpose of public use of his own land measuring 13 Decimals and thereby applicants sold 83 Decimals of land. There was further allegation that applicants have also sold some portion of Government land while selling their lands by way of plotting to 17 persons. Based on the report, aforementioned crime is registered against the present applicants.

3. Shri H.B. Agrawal Senior counsel for the applicants would submit that applicants have purchased the land from other persons and thereafter, in the year 2002, they have sold the said land to 17 persons. Since 2002, complainant has not raised any dispute but First Information Report was lodged only on 17.08.2021 with inordinate delay. He further submits that applicants have not committed any offence as alleged against them. On the dispute raised before the Revenue Officer by Dr. Akhil Gupta on the objection raised by the complainant, Sub Divisional Officer (Revenue) vide its order dated 30.07.2021 arrived at a conclusion that applicant therein has not demarcated his land, therefore, it is not apparent as to who is in possession of whose land and dismissed the application. It is contended that as proper demarcation has not been conducted of disputed property as alleged by the complainant, it cannot be said that applicants have committed any offence as alleged against them. It is further

contended that dispute raised is of civil nature, hence, applicants may be enlarged on bail. Lastly, he submits that applicants are aged about 79 and 70 years of age, hence, looking to their age, benefit under Section 438 of Cr.P.C. may be extended to them.

4. Per contra, Shri B.L. Sahu, P.L. for the State opposing the submissions made by learned senior counsel for the applicants, would submit that complainant in his written complaint has made specific allegation that applicants have purchased 69 Decimals of land, but have sold lands to 17 persons, from the layout it is apparent that applicants total land comes to 83 Decimals, which itself shows that applicants have committed the alleged crime. He further submits that on the spot inspection, Revenue Officers have arrived at a finding that 7 Decimals of land of complainant has been encroached upon by the applicants and sold to other persons, hence, they are not entitled for grant of anticipatory bail.
5. However, learned counsel for the applicants do not dispute that applicants have sold the land in the year 2002 whereas First Information Report has been registered against the applicants on 17.08.2021.
6. I have heard learned counsel for the parties.
7. Taking into consideration entire facts and circumstances of the case, nature of allegations, age of applicants of 79 and 70 years and further considering the copy of order passed by Sub Divisional Officer (Revenue) placed on record as Annexure-C, without commenting anything into the merits of the case, I am inclined to release the present applicants on anticipatory bail.

8. Accordingly, bail application is allowed and it is directed that in the event of arrest of the applicants in connection with the aforesaid offence, they shall be released on anticipatory bail on their furnishing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) each with one surety in the like sum to the satisfaction of the arresting officer and they shall be abide by the following conditions :-

(i) they shall make themselves available for interrogation by a police officer as and when required;

(ii) they 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 them from disclosing such facts to the Court or to any police officer.

(iii) they shall not influence the witnesses during pendency of the trial.

Certified copy as per Rules.

Sd/-
(Parth Prateem Sahu)
Judge