

HIGH COURT OF CHHATTISGARH, BILASPUR**M.Cr.C.(A) No.1430 of 2020**Order Reserved on : 19.1.2021Order Passed on : 8.2.2021

Surendrapal Singh, Son of Shri Kapil Devi Singh, Aged about 52 years, Caste Kshatriya, Occupation Patwari, Halka No.28, Jharrakhand, Manendragarh, Resident of Ward No.15, Manendragarh, Police Station and Tahsil Manendragarh, District Koriya, Chhattisgarh

---- Applicant

versus

State of Chhattisgarh through Station House Officer, Police Station Manendragarh, District Koriya, Chhattisgarh

---- Respondent

For Applicant	:	Shri Ashok Kumar Verma, Shri Gajendra Sahu and Shri Lekhrum Dhruv, Advocates
For Respondent/State	:	Shri H.S. Ahluwalia, Dy. A.G.

Hon'ble Shri Justice Arvind Singh Chandel**C.A.V. ORDER**

1. The instant is second application for grant of anticipatory bail to the Applicant. This Court, vide order dated 6.3.2020 passed in M.Cr.C. (A) No.307 of 2020, had dismissed first application for grant of anticipatory bail as withdrawn granting liberty to file an application under Section 439 of the Code of Criminal Procedure before the Trial Court for grant of regular bail with a direction to the Trial Court that on filing of such an application the same shall be decided in accordance with law preferably on the date of filing. But, instead of filing a regular bail application before the Trial Court, the Applicant has preferred the

instant second application before this Court for grant of anticipatory bail.

2. The Applicant is apprehending his arrest in connection with Crime No.252 of 2019 registered with Police Station Manendragarh, District Koriya for offence punishable under Sections 420, 467, 468, 471, 120B of the Indian Penal Code.
3. Case of the prosecution, in brief, is that on 1.7.2019 a written complaint was filed by Devpriya Ekka against 11 persons alleging that on 17.2.2009 she had purchased a land measuring area 1.348 hectares which was a part of Khasra No.148 from Shivnarayan and others through a registered sale-deed. After mutation, khasra number of the purchased land was converted to 148/2. Thereafter, she submitted an application for demarcation of the land. On 29.6.2019, demarcation of the land bearing Khasra No.148/2 was done. Then she came to know that a part of the land bearing Khasra No.148/2 was again sold to some other purchasers by the same sellers showing that part to be bearing Khasra No.148/1, 148/3 and 148/4. Allegedly, the present Applicant was posted there as a Patwari of the said area/halka, i.e., Village Chaughada, Patwari Halka No.26. Allegedly, the present Applicant through his own login id and password, conspiring with other co-accused persons, did division of the naksha (map) and prepared khasra and naksha in which part of the land bearing Khasra No.148/2 was also included. On the basis of the written complaint, First Information Report was registered. On completion of investigation, a charge-sheet was filed on 25.12.2019 in which the present Applicant was shown to be absconded. Thereafter, the first application for grant of anticipatory bail was moved by the

Applicant and on dismissal of the said application as withdrawn with liberty, as stated above in first paragraph of this order, the Applicant has preferred the instant second application for grant of anticipatory bail.

4. Learned Counsel appearing for the Applicant submitted that the Applicant is innocent and he has been falsely implicated in the case. It was further submitted that after dismissal of the first application for anticipatory bail by this Court, the Applicant came to know that the investigating agency repeatedly inquired from the Tahsildar, Manendragarh that who was the responsible Patwari for overlapping of Khasra No.148 of Village Chaughada and the Tahsildar sent a report to the Station House Officer of Police Station Manendragarh on 17.7.2020 that on 17.5.2016 Khasra No.148 was divided into Khasra No.148/1 and 148/3 by the then Patwari Sadashiv Mishra. At that time, the present Applicant was not posted there. Therefore, the present Applicant had no role in division of Khasra No.148. It was further submitted that according to the report dated 17.7.2020 of the Tahsildar, which is based on the report of National Informatics Centre, Nava Raipur, Atal Nagar, Raipur dated 1.7.2020, first division of Khasra No.148 was done into Khasra No.148/1 and 148/4 on 17.5.2016 by the then Patwari Sadashiv Mishra. Thereafter, on 31.1.2019 and on 29.4.2019, Khasra No.148/1 and Khasra No.148/4, respectively were again divided by the present Applicant through his login id and password. There is no material on record to show that the present Applicant ever divided Khasra No.148/2. Virtually, there is nothing on record to show that when and by whom Khasra No.148 was divided into Khasra No.148/2. Therefore, it was submitted that after submission of the report dated 17.7.2020 by Tahsildar, *prima*

facie, no case is made out against the present Applicant. On this new ground and changed circumstances, the present Applicant is entitled to get benefit of anticipatory bail. It was also submitted that during the course of investigation, statement of the present Applicant has been recorded and charge-sheet has already been filed and his custodial interrogation is not required. Thus, it was prayed that the Applicant may be admitted to benefit of anticipatory bail on the above new grounds and changed circumstances.

5. Learned Counsel appearing for the Respondent/State opposed the instant application. Referring to the 161 Cr.P.C. statement of Revenue Inspector Rampratap Singh, he submitted that the division of the land bearing Khasra No.148 was done by the present Applicant through his Patwari login id and he is the person who approved and changed the map through his Patwari login id. Therefore, even the report of the Tahsildar dated 17.7.2020 does not support the Applicant. Hence, it was prayed that the present application may be rejected.
6. I have heard Learned Counsel appearing for the parties. I have minutely perused the statements of the witnesses recorded under Section 161 of the Code of Criminal Procedure. I have also perused the report of the Tahsildar dated 17.7.2020 which is based on the report of the National Informatics Centre, Nava Raipur, Atal Nagar, Raipur dated 1.7.2020.
7. Having heard Learned Counsel appearing for the parties and having perused all the material placed before me, I find that total area of the land bearing Khasra No.148 was 2.808 hectares. Out of which, on 6.6.1987, 0.813 hectares and on 6.6.1987 itself, 0.363 hectares of the

same land bearing Khasra No.148 were sold to two different persons. Thereafter, again on 8.3.1989, a part measuring 0.271 hectares of Khasra No.148 was sold. Out of the land bearing Khasra No.148 itself, 1.348 hectares was sold to the Complainant on 17.2.2009. According to the case of the prosecution, the land sold to the Complainant bears Khasra No.148/2 and the two subsequent sales of the lands were also shown to be parts of Khasra No.148/2. According to the report of the Tahsildar dated 17.7.2020, Khasra No.148 was divided for the first time on 17.5.2016 into Khasra No.148/1 and Khasra No.148/4 by the then Patwari Sadashiv Mishra. Thereafter, according to the report of the National Informatics Centre, Nava Raipur, Atal Nagar, Raipur dated 1.7.2020, on 31.1.2019 and on 29.4.2019, the present Applicant made fresh divisions of Khasra No.148/1 and Khasra No.148/4 through his Patwari login id. There is nothing on record to show that Khasra No.148/2 was ever divided by the present Applicant. Virtually, no material is available on record to show that when and by whom Khasra No.148/2 was divided. Therefore, looking to the above changed circumstances of the case and further considering the fact that the statement of the Applicant has already been recorded during investigation, charge-sheet has also been filed and also considering that custodial interrogation of the Applicant is not required, without further commenting on other merits of the case, I am inclined to grant anticipatory bail to the Applicant.

8. Accordingly, the instant application for grant of anticipatory bail is allowed.
9. It is directed that in the event of arrest of the Applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on

his furnishing a personal bond in the sum of Rupees Fifty Thousand with one solvent surety for a sum of Rupees Fifty Thousand to the satisfaction of the Arresting Officer/Presiding Officer of the concerned Trial Court. The Applicant shall abide by all the following terms and conditions:

- (i) He 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 fact to the Court,
- (ii) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) He shall appear before the Trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-

(Arvind Singh Chandel)
JUDGE