

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR
M.Cr.C (A). No. 1182 of 2021

Likheshwar Sahu S/o Late Dayaram Sahu, Aged About 39 Years, R/o Village and Post Murmunda, Tahsil and District Durg, Chhattisgarh.

---- Applicant

Versus

State of Chhattisgarh Through The Station House Officer, Police Station Durg, District Durg, Chhattisgarh.

---- Respondent

For Applicant	: Mr. C.R. Sahu, Advocate.
For State	: Mr. Shrikant Kaushik, PL.

Hon'ble Shri Parth Prateem Sahu, J
Order on Board

27/09/2021

1. Applicant has filed this bail application under Section 438 of Cr.P.C. apprehending his arrest in connection with Crime No.778/2021 registered at Police Station –Durg, District Durg, (CG), for the offence punishable under Section 420 of the Indian Penal Code.
2. Case of the prosecution, in brief, is that on 05.12.2019 applicant entered into an agreement for sale of his land with complainant. The property for sale mentioned in agreement to sell is measuring 2.24 hectare of agriculture land and situated in village -Murmunda, Tah Dhamda, District - Durg. Prior to entering into agreement to sell, complainant has already paid Rs.10 lacs through three different cheques and on the date of execution of agreement to sell has paid cash of Rs.15 lacs. Applicant took time till December 2021 to execute sale deed but before execution of sale deed, he again entered into agreement to sell the same land with Smt. Prachi Mishra, Rishab Vajpai and Arpit Jain, all residents of Raipur, and Roshan Kumar Jain resident of Durg for consideration of Rs.27,52,000/-. When complainant got knowledge by publication of notice of sale in newspaper, he lodged written report, based upon which, aforementioned crime is registered against applicant.
3. Learned counsel for the applicant submits that earlier applicant has taken loan of Rs.10 lacs from complainant. Applicant has already re-paid loan amount, but

complainant forced him to execute documents for further balance amount towards interest, upon which, agreement to sell dated 05.12.19 was executed. In alternate, he submits that even if, for any reason, sale deed is not executed by applicant, then also dispute will be of civil nature and not of criminal nature. Hence, applicant may be enlarged on anticipatory bail.

4. Learned State Counsel opposes the submissions made by learned counsel for applicant and submits that applicant agreed to sell his land measuring 2.24 hectare for total sum of Rs.25 lacs, applicant executed sale agreement on 05.12.19 in favour of complainant. As alleged complainant paid entire sale consideration. Thereafter without returning back the amount to complainant, applicant again entered into agreement to sell with other persons for sum of Rs.27,52,000/-. Thus, applicant has committed the offence as alleged against him. Hence, he is not entitled for grant of anticipatory bail. He read over contents of agreement to sell executed between applicant and complainant in support of his contention and submits that there is further mention in complaint that applicant has accepted amount for sale of vegetables to Dev Kumar Janghel, but he was also cheated.
5. Heard learned counsel for the parties.
6. Contents of agreement to sell read over by the State Counsel wherein it is mentioned that prior to the date of entering into agreement to sell complainant has allegedly paid Rs.10 lacs through three different cheques and on the date of execution of agreement to sell, he paid balance amount of sale consideration of Rs.15 lacs and thereby paid total sale consideration prior to the date of execution of sale deed. Grievance of complainant is that applicant has not executed sale deed in his favour.
7. Considering the entire facts and circumstances of the case, nature of allegations, contents of agreement to sell, submissions of learned counsel for the parties, without commenting anything on merits of the case, I am inclined to

grant anticipatory bail to the applicant.

8. Accordingly, anticipatory bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the crime in question, she shall be released on bail by the officer arresting her on executing a personal bond in sum of Rs.25,000/- with one local surety in the like sum to the satisfaction of the concerned Arresting Officer. The 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/her 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 her by the said Court till disposal of the trial.

Sd/-
(Parth Prateem Sahu)
Judge

Jamal/-