

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1253 of 2021**

Ramesh Kumar Gangwani S/o Sakharmal Gangwani, Aged About 67 Years, R/o Behind Kali Mandir, Near Chhoti Line Railway Station Govind Nagar, Pandri, District Raipur, Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through Thana In-Charge, Thana Purani Basti, Raipur, Chhattisgarh.

---- Non-applicant

For Applicant : Shri Sudeep Johri, Advocate

For Non-applicant/State : Shri Vaibhav Singh, Panel Lawyer

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****06.10.2021**

1. The applicant has preferred this first bail application under Section 438 of the Cr.P.C. for grant of anticipatory bail, as he is apprehending his arrest in connection with Crime No.189 of 2021, registered at Police Station Purani Basti, Raipur, (C.G.), for offence punishable under Section 292(C) of Chhattisgarh Municipal Corporation Act, 1956 (hereinafter referred to as 'Act of 1956').
2. Case of the prosecution in brief, is that, applicant being owner of un-diverted land situated at village Bhatagaon, Municipal Corporation, Raipur bearing Kh. Nos. 327/8 and 328/8 have sold it by doing illegal plotting to 15 persons. The act of applicant came to the knowledge of Zone Commissioner, who forwarded the complaint on 30.06.2021 to higher authorities. On the basis of

complaint, First Information Report was lodged by one of the Sub Engineer of Municipal Corporation, Raipur. Based on the report submitted before the Police, offence under Section 292-C of the Act of 1956 is registered against the applicant.

3. Shri Sudeep Johri, learned counsel for the applicant would submit that applicant was owner of subject land and when he was in dire need of money, he sold the land to different persons. As buyer of entire land was not available, therefore, he was forced to sold the land in pieces. He was not registered colonizer and not aware with regard to law and therefore, he has not taken prior permission of the Municipal Corporation. He also submits that alleged offence stated to have been committed under Section 292-C of the Act of 1956. The procedure for prosecution for commission of any offence under Municipal Corporation Act,1956 is to be in accordance with Section 396 of the Act of 1956. He submits that under Section 396 of the Act of 1956, complaint is to be filed either by the Commissioner or Officials or Officer In-charge of the Police Station. In this case, no complaint has been lodged but directly registered First Information Report by Police which is illegal and not sustainable. Applicant will co-operate with investigation as and when he is directed to appear before the Investigating Officer, hence, he may be enlarged on anticipatory bail.
4. Per contra, Shri Vaibhav Singh, learned Panel Lawyer representing the State opposing the submissions made by learned counsel for the applicant, would submit that under Section 292-C

of the Act of 1956, no land owner is not permitted to sell the land by illegal plotting without prior permission of Municipal Corporation. Applicant admittedly, has not sought any permission and sold the land not only to one or two persons, but as many as 15 persons, hence *prima facie* applicant has committed offence under Section 292-C of the Act of 1956. He further submits that under Section 396 of the Act of 1956, authority of officer In-charge of Police Station is also mentioned and Police has drawn the proceeding, which cannot be said to be illegal, hence, applicant is not entitled for the benefit under Section 438 of Cr.P.C.

5. I have heard learned counsel for the parties.
6. Taking into consideration entire facts and circumstances of the case, nature of allegations, submissions made by learned counsel for the parties, without commenting anything into the merits of the case, I am inclined to release the present applicant on anticipatory bail.
7. Accordingly, bail application is allowed and it is directed that in the event of arrest of the applicant in connection with the aforesaid offence, he shall be released on anticipatory bail on his furnishing a personal bond for a sum of Rs.25,000/- (Rupees Twenty Five Thousand only) with one surety in the like sum to the satisfaction of the arresting officer and he shall be abide by the following conditions :-

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

(ii) 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 facts to the Court or to any police officer.

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

Certified copy as per Rules.

Sd/-

(Parth Prateem Sahu)
Judge