

HIGH COURT OF CHHATTISGARH, BILASPUR

MCRCA No. 1287 of 2021

- Sharad Kumar Sahu, S/o Bhagwati Sahu Aged About 42 Years R/o Village Bhatgaon, Post Sarda Tah Berla District Bemetara Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station Berla District Bemetara Chhattisgarh

---- Respondent

AND

MCRCA No. 1450 of 2021

- Shyamlal Sahu S/o Late Shri Chintaram Sahu Aged About 61 Years R/o Village Sarda, Post Sarda Tahsil Berla, District Bemetara, Chhattisgarh

---- Applicant

Versus

- State Of Chhattisgarh Through Police Station - Berla, District Bemetara, Chhattisgarh

---- Respondent

For Applicants	: Ms Seema Singh, Advocate
For Respondent/State	: Shri BP Banjare, Dy GA
For Objector	: Shri Sanjeev Kumar Sahu and Shri Prabhakar Tiwari, Advocates

Hon'ble Shri Justice Parth Prateem Sahu
Order on Board

01.12.2021

1. As these bail applications are arising out of same crime number, they are being disposed of by this common order.
2. Applications filed under Section 438 of CrPC for grant of anticipatory bail to the applicants as they apprehend their arrest in connection with Crime No. 322 of 2021 registered at Police Station Berla, District Bemetra Chhattisgarh for commission of offenses punishable as mentioned below:

Applicant- Sharad Kumar Sahu	Sections 420, 467, 468, 471 and 34 of IPC
Applicant- Shyamlal Sahu	Sections 420, 467, 468, 471, 120B and 34 of IPC

3. Case of the prosecution, in brief, is that, complainant entered into an agreement with applicant- Shyamlal Sahu for purchase of land bearing Khasra No.1195/2 measuring 2.5 decimals of land situated at village Sarda for sale consideration of Rs.4,00,000/- on 13.08.2020. After some time, complainant came to know that Shyamlal Sahu with help of applicant- Sharad Kumar Sahu (land broker), through whom she entered into an agreement to purchase the land cheated her. Land which has been shown to her was Government land, forged and fabricated papers have been prepared in name of Shyamlal Sahu. Complainant lodged complaint to concerned Police Station, based upon which aforementioned crime has been registered against applicants.

4. Anticipatory bail application filed before the Court below was rejected by impugned order.

5. Ms Seema Singh, learned counsel for the applicants would submit that Shyamlal Sahu has been given 'Patta' by the then Sarpanch of Village of land bearing Khasra No.1195/2 measuring 2.5 decimals situated at village Sarda, which he wanted to sale. Shyamlal Sahu expressed his intention to Sharad Kumar Sahu, upon which applicant Sharad Kumar Sahu brought to the knowledge of complainant. They have not committed any offence. Shyamlal Sahu is ready to return the amount which he received, hence he may be granted bail under Section 438 of CrPC. She

further submits that Sharad Kumar Sahu acted only as mediator between complainant and Shyamlal Sahu and signed Agreement to sale as witness to the document executed. Applicant- Sharad Kumar Sahu has not received any amount nor there is any allegation against him by complainant that she had paid any amount directly to him. Hence, there is no involvement of Sharad Kumar Sahu in commission of crime. It is further pointed out that Shyamlal Sahu has shown his intention to sell his land recorded in his name and therefore, Sharad Kumar Sahu has brought to the notice of complainant, who was in search of land, that there is land for sale and after verifying the property, complainant entered into agreement. No offence is committed by either of applicants.

6. On the other hand, Shri BP Banjare, learned State counsel opposing the submissions of learned counsel for the applicant, submits that there is involvement of both applicants in commission of alleged crime. Land details were mentioned as Khasra No.1195/2 measuring 2.5 decimals of land situated at village Sarda in agreement, but there is no such land available in village. At the time of inspection, applicants have shown some other land bearing Khasra No.1196/1, which is Abadi land, in possession of some other person hence there is clear involvement of applicants in commission of crime as alleged. However, on putting query with regard to making payment of amount for sale consideration, he submits that in the statement, it has come that in presence of witnesses, complainant has paid some cash and cheque of Rs.1,50,000/- to Shyamlal Sahu. He also submits that in statement of witnesses recorded under Section 161 of the CrPC, it has come that amount was also handed over to applicant-Sharad

Kumar Sahu. Hence, there is involvement of both applicants in commission of offence as alleged by complainant.

7. Shri Sanjeev Kumar Sahu, learned counsel for the objector/complainant opposes the submissions of learned counsel for the applicants, and submits that both the applicants are involved in commission of crime, in complaint lodged by complainant before Police, there is specific mention that part of amount has been paid to Sharad Kumar Sahu. He also pointed out that without there being any land recorded in name of Shyamlal Sahu, he entered into agreement and accepted sale consideration from complainant. Hence applicants are not entitled for bail under Section 438 of CrPC.

8. I have heard learned counsel for the parties and also perused documents placed along with bail applications.

9. It is not disputed by the parties that complainant entered into an agreement on 13.08.2021 with Shyamlal Sahu to purchase land bearing Khasra No.1195/2 measuring 2.5 decimals, situated at village Sarda for consideration of Rs.4,00,000/-. In the statement of complainant recorded under Section 161 of the CrPC, it has come that amount of sale consideration has been handed over to Shyamlal Sahu in presence of witness (some amount in cash and Rs.1,50,000/- through cheque). Complainant has not made any allegation against applicant- Sharad Kumar Sahu that she handed over or made payment of any amount to him against sale consideration of Rs.4,00,000/-. Submission of learned State counsel that signature of Sarpanch as appearing in 'Patta' annexed along with

covering memo by applicant is not of the Sarpanch, who was an elected Sarpanch of Panchayat on the date of issuance of 'Patta', but signature as appearing, is of Sarpanch elected on 05.09.1999, considering submissions made by learned counsel for the parties, facts and circumstances of the case, statement of complainant recorded under Section 161 of CrPC, wherein she has stated that she paid entire amount in presence of witnesses to Shyamlal, I do not find it to be a fit case to grant anticipatory bail of **Shyamlal Sahu, applicant in MCRC-1450 of 2021, and it is accordingly dismissed.**

10. Having regard to the statement of complainant recorded under Section 161 of CrPC, role of Sharad Kumar Sahu as of the mediator, and also considering entirety of facts and circumstances of the case, without commenting anything on merits of case, **I am inclined to grant anticipatory bail to Sharad Kumar Sahu, applicant in MCRC- 1287 of 2021.**

11. Accordingly, the application of Sharad Kumar Sahu is allowed and it is directed that in the event of arrest of applicant in connection with the crime in question, he shall be released on anticipatory bail by the Officer arresting him on his executing a personal bond in the sum of Rs.25,000/- (Rupees twenty-five thousand) with one surety in the like sum to the satisfaction of the concerned Investigating Officer. The applicant shall also abide by the following conditions:

- (a) That the applicant shall make himself available for interrogation before the Investigating Officer as and when required;

(b) That the 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;

(c) That the applicant shall not act, in any manner, which will be prejudicial to fair and expeditious trial; and

(d) That the applicant shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Certified copy as per rules.

Sd/-
(Parth Prateem Sahu)
JUDGE

padma