

NAFR

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRC No. 8205 of 2021**

Chitrasen Dev Das Kalihari, S/o Late Narayan Das Kalihari,
Aged About 31 Years, R/o Village Patora, P.S. Utai, Tehsil
Patan, District Durg Chhattisgarh.

---- Applicant**Versus**

State of Chhattisgarh Through District Magistrate, District Durg
Chhattisgarh.

---- Non-applicant

For Applicant : Shri Pawan Kesharwani, Advocate
For Non-applicant/State : Shri Vimlesh Bajpai, Govt. Advocate

Hon'ble Shri Justice Parth Prateem Sahu**Order on Board****08.12.2021**

1. This is first application filed under Section 439 of the Code of Criminal Procedure, 1973 for grant of regular bail to applicant, who is in custody since 30.07.2021 in connection with Crime No.738 of 2019 registered at Police Station Patan, District Durg (C.G.) for commission of the offence punishable under Sections 420 and 471 of Indian Penal Code.
2. Case of prosecution is that, a written complaint was filed on 15.02.2016 stating therein that complainant entered into an agreement to purchase land situated at village Jarwaydih, Tehsil Kurud, District Dhamtari bearing Khasra No.607, area 0.820 hectare for total consideration of Rs. 8 Lacs. On the date of execution of agreement, complainant paid Rs.1 Lac to Parmanand, one of the owner of land in dispute. After execution of agreement and accepting advance amount, Parmanand was not talking with complainant, when he reached to address mentioned

in agreement to sell, no person in the name of Parmanand was found residing in that village. Based on complaint, First Information Report was registered on 15.08.2019, during the course of investigation, applicant was arrested on 30.07.2021.

3. Shri Pawan Kesharwani, learned counsel for the applicant would submit that applicant is only a witness to agreement executed on 27.05.2015. Advance amount as mentioned in agreement of Rs.1 Lac was paid by complainant to Parmanand. In complaint also, complainant has specifically pleaded that he paid advance amount to Parmanand. There is no dispute that land (subject matter of agreement to sell) was recorded in the name of Parmanand and his brother Ganesh Ram, hence, there is no intention of cheating the purchaser/complainant at the time of execution of agreement. Parmanand who accepted the advance amount, has been left out from the array of accused while filing of the charge-sheet by police. Charge-sheet was filed only against present applicant. Even complainant, in the written complaint, had made specific allegation against Parmanand of accepting advance amount and not executing sale deed. Applicant is in jail since 30.07.2021, hence, he may be enlarged on regular bail.
4. On the other hand, Shri Vimlesh Bajpai, learned Government Advocate for the State while opposing the submissions made by learned counsel for the applicant would submit that applicant is a habitual offender. There are as many as four other criminal antecedents registered against the applicant, out of which two criminal antecedents are of similar nature. He pointed out that in

statements of Sukhit Ram, Milap Ram and Bhanu Pratap recorded under Section 161 of Cr.P.C., it has come that photograph of Sukhit Ram has been affixed above the photograph of Ganesh Ram, who is owner of subject land. The farmers who got land under ceiling proceedings, but some other person was in possession of land. Land owner's agreed to sell their lands, granted to them by State Government and all of them have submitted their revenue documents with Milap Ram. Milap Ram returned most of the revenue documents to farmers except the revenue document of the land recorded in the name of Parmanand and Ganesh Ram, which was given by Milap Ram to Bhanu Pratap on the ground that some person is interested to purchase the said piece of land. In statement of Bhanu Pratap, it has come that it is the applicant to whom he handed over revenue documents for the purpose of sale. The document was recovered during the course of investigation from the possession of complainant, in which, photograph of some other person i.e. Sukhit Ram is found affixed. Chain of facts and circumstances would show that applicant was working as land broker and complainant used to purchase land through him as evident from statement of complainant himself. Agreement to sell was signed by the applicant, which is not in dispute, hence, there is *prima facie* involvement of applicant in commission of crime. He submits that looking to criminal antecedents of the applicant of commission of crime of similar nature, he is not entitled for relief of bail.

5. I have heard learned counsel for the parties.
6. Taking into consideration the facts and circumstances of the case, nature of allegations, as also the fact that signature of applicant in the agreement is not disputed by him, other criminal cases registered against the applicant of similar nature at police station Patan, I do not find it to be a fit case to enlarge the applicant on bail at this stage. Accordingly, bail application is dismissed.

Sd/-
(Parth Prateem Sahu)
Judge

Yogesh