IN THE HIGH COURT OF MADHYA PRADESH AT GWALIOR

BEFORE

HON'BLE SMT. JUSTICE SUNITA YADAV

ON THE 2nd OF FEBRUARY, 2024

MISC. CRIMINAL CASE No. 3920 of 2024

BETWEEN:-

1. **VINOD SHARMA S/O SHRI SHIVCHARAN, AGED 55 YEARS, OCCUPATION : AGRICULTURIST, R/O DAK KHANA ROAD, JAURA TEHSIL JAURA DISTRICT MORENA (MADHYA PRADESH)**

2. **ASHOK SHARMA S/O SHRI SHIVCHARAN, AGED 65 YEARS, OCCUPATION : AGRICULTURIST, R/O DAK KHANA ROAD, JAURA TEHSIL JAURA, DISTRICT MORENA (MADHYA PRADESH)**

.....APPLICANTS

(BY SHRI PRASHANT SHARMA - ADVOCATE)

AND

THE STATE OF MADHYA PRADESH THROUGH POLICE STATION JAURA, DISTRICT MORENA (MADHYA PRADESH)

.....RESPONDENT

(BY SHRI ROHIT MISHRA - ADDITIONAL ADVOCATE GENERAL FOR RESPONDENT/STATE)
(BY SHRI ATUL GUPTA - ADVOCATE FOR COMPLAINANT)

This application coming on for admission this day, the court passed the following:

ORDER

I.A.No.2485 of 2024, an application under Section 301 (2) of the Cr.P.C. filed on behalf of the complainant is taken up, considered and allowed for the reasons mentioned therein.

Shri Atul Gupta, Advocate and his associates are permitted to assist the prosecution.

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This is **first** application filed by the applicants under Section 438 of the Cr.P.C. for grant of anticipatory bail relating to Crime No. 6 of 2024 registered at Police Station Jaura, District Morena (M.P.) for the offence under Sections 420, 467, 468, 471 of IPC,1860.

Learned counsel for the applicants/accused argued that the applicants are innocent and have been falsely implicated. The applicants/accused were not a party before the Court of Tahsildar during proceeding under Section 248 of MPLRC. It is further argued that before the Tahsildar during the said proceedings, co-accused Subhash did not inform that any agreement has been executed in respect of the land. However, co-accused Subhash during the proceedings in appeal pending before the SDO filed agreement to sell for the first time. Present applicants were not a party to that appeal and without giving any opportunity to the applicants/accused to explain the execution of agreement to sell, the order of registration of F.I.R. has been passed. Further submission is that as per allegation of prosecution, applicants /accused are only *Sahmatikarta (Consenter)* in alleged agreement to sell. This is a case of civil nature and complainant is trying to colour in a criminal case. Pujari had no locus to raise objections. Applicants are permanent resident of District Morena (M.P.), therefore, there is no possibility of their absconsion or tampering with the prosecution evidence. Hence, prayed to allow the anticipatory bail application of the applicants.

On the other hand, learned Additional Advocate General for the respondent/State as well as the counsel for the complainant vehemently opposed the application and argued that the land belonging to temple about which accused persons are trying to get ownership on the basis of false and

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fabricated agreement to sell. No proceeding before the Revenue Court is pending. Under these circumstances and in view of gravity of offence, the applicants are not entitled to get the benefit of anticipatory bail.

Heard learned counsel for the rival parties and perused the case diary available on record.

In view of the facts and circumstances of the case, but without expressing any opinion on merits of the case, this application is allowed and it is directed that in the *event of arrest*, the applicants be released on bail on furnishing a personal bond in the sum of **Rs.1,00,000/-(Rupees One Lac Only) each with a solvent surety each** in the like amount to the satisfaction of the Arresting Officer/Investigating Authority.

The applicants shall further abide by other conditions enumerated under Section 438 (2) of the Code of Criminal Procedure and shall cooperate in the investigation, otherwise this bail order shall automatically stand cancelled.

Application stands allowed and **disposed of**.

Certified copy as per rules.

(SUNITA YADAV)
JUDGE

AK/-

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Signing time: 02-Feb-24
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