

**NAFR**

**HIGH COURT OF CHHATTISGARH, BILASPUR**

**MCRCA No. 954 of 2022**

1. Parmanand Nihalani S/o Late Basamal Nihalani, Aged About 83 Years, R/o Near Vadhvani Atta Chakki, Brahamanpara, Dhamtari, Tehsil And District Dhamtari (C.G.).

**---- Applicant**

**Versus**

1. State Of Chhattisgarh, Through Police In-Charge, Police Station Arjuni, Dhamtari (C.G.).
2. Shri Ganesh Sachdev S/o Shri Sudamamal Sachdev, Aged About 54 Years, R/o Aamapara Ward, Dhamtari, Tehsil And District Dhamtari. (Complainant).

**---- Non-Applicants**

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For Applicant	:	Mr. Ankur Agrawal, Advocate
For State	:	Mr. Kashif Shakeel, Dy. A.G.
For Objector/complainant	:	Mr. Karan Kumar Baharani, Advocate.

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**Hon'ble Justice Shri Sachin Singh Rajput**

**Order on Board**

**29/07/2022**

- 1) The applicant has preferred this First Bail Application under Section 438 of Cr.P.C. as he is apprehending his arrest in connection with Complaint Case No. 515/2022 registered at Police Station Arjuni, Dhamtari (C.G.) for the offence punishable under Sections 420 & 120-B of Indian Penal Code.
- 2) Case of the prosecution, in brief, is that non-applicant No. 2 had filed the complaint case before the JMFC, Dhamtari (CG.) against the present applicant alongwith other co-accused and made allegation that the present applicant Parmanand Nihalani purchased a land amounting to Rs. 12,66,000/- from the complainant through registered sale deed and the same amount was paid through the cheque bearing No. 705045 and but the accused asked the complainant not to deposit the cheque before two months till then the above mentioned amount the accused will

arrange in his account and when the complainant deposited the said cheque, the same could not be cleared due to lapse of three months of issuance of cheque. Further the present applicant had gifted the said land to the co-accused Smt. Bharati Daultani through gift deed. When the complainant asked for the said amount from the co-accused and the co-accused denied to pay the above mentioned amount then the complainant filed the complaint case for which the JMFC, Dhamtari (C.G.) has registered the Complaint Case bearing No. 515/2022 for the offence under Sections 420 & 120-B of Indian Penal Code.

- 3) Learned counsel for the applicant submits that the applicant is an innocent person and has been falsely implicated in this case. He submits that a complaint case under Section 200 of Cr.P.C. has been filed for the offence punishable under Section 420 of IPC. He submits that a sale deed was executed by the complainant in favour of the present applicant Parmanand Nihalani, father of the present co-accused Smt. Bharati Daultani in the year 2016 and it is alleged that the cheque of the amount which was given in lieu of the consideration of sale deed was not presented within 3 months and subsequently the cash amount was given in lieu of that cheque. However, in 2019 after a lapse of about 3 years a civil suit was filed by the complainant for setting aside the sale deed and recovery of amount which is pending consideration before the competent Court. Despite this, a frivolous complaint has been filed which has been registered by the learned Magistrate and there is all possibility that she may be arrested and her application before the Trial Court is rejected on flimsy ground. He further submits that the dispute is of civil nature and given a criminal colour of because prima facie it appears that the civil litigation is barred by the limitation. Therefore, to put pressure upon the present applicant, the case has been filed. Therefore, looking to the entire facts and circumstances of the case, the applicant may be enlarged on anticipatory bail and she is ready and willing to comply with the conditions so imposed.
- 4) On the other hand, learned counsel for the State submits that its a complaint case filed by the complainant under Section 200 of

Cr.P.C. and on the basis of evidence and material available, the summons have been issued.

- 5) Counsel for the Objector opposes and submits that the complainant has been cheated as the amount which was sale consideration was not paid to the complainant, therefore, a complaint was filed. On being asked when the complaint was filed he stated that the complaint was filed, in year 2022 and the sale deed was executed in the year 2016.
- 6) Having heard learned counsel for the parties, having regard to the facts and circumstances of the case, looking to the age of present applicant i.e. 83 years, looking to the fact that earlier the sale deed was executed in the year 2016, there is civil litigation with regard to cancellation of sale deed and recovery of the amount, which is not disputed by the Counsel for the complainant, nature of allegation levelled, without commenting anything on merits of the case, this Court is of the opinion that present is a fit case for granting anticipatory bail to the applicant. Accordingly, the application is **allowed**.
- 7) It is directed that in the event of arrest of the applicant in connection with the aforesaid crime, he shall be released on bail by the Arresting Officer on his furnishing a personal bond for a sum of **Rs. 25,000/-** with one surety of Rs. 25,000/- to the satisfaction of the Arresting Officer. Applicant shall be released on bail on the following conditions:-
  - i. he shall make himself available for interrogation before the Police 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 fact to the Court or to the Investigating Officer,
  - iii. he shall not act in any manner which will be prejudicial to fair and expeditious trial,

- iv. he shall appear before the trial Court on each and every date given to her by the said Court till disposal of the trial and
- v. he shall not involve himself in any offence of similar nature in future.

It is made clear that the above observations are only for deciding this bail application. Needless to state that the Trial Court shall decide the case on its own merits in accordance with law.

The State as well as the victim/complainant are at liberty to file an application regarding cancellation of this bail order in the event of applicant violating any of the conditions as stated above.

**-Sd/-  
(Sachin Singh Rajput)  
Judge**

Chandrakant