

**IN THE HIGH COURT OF MADHYA PRADESH
AT INDORE
BEFORE**

HON'BLE SHRI JUSTICE ANIL VERMA

ON THE 28th OF JUNE, 2022

MISC. CRIMINAL CASE No. 27653 of 2022

Between:-

**SATISHCHANDRA GUPTA S/O LATE SHRI BANKATLAL GUPTA ,
AGED ABOUT 68 YEARS, OCCUPATION: BUSINESS 403-C,
GRAVITY MALL, 27, MECHANIC NAGAR. BHAMORI, INDORE
(MADHYA PRADESH)**

.....PETITIONER

***(SENIOR ADVOCATE SHRI A.K.SETHI APPEARED FOR THE
PETITIONER WITH PRATEEK MAHESHWARI, LEARNED COUNSEL
FOR THE PETITIONER)***

AND

**THE STATE OF MADHYA PRADESH STATION HOUSE OFFICER
THROUGH POLICE STATION KHUDEL. (MADHYA PRADESH)**

.....RESPONDENTS

***(SENIOR ADVOCATE SHRI R.S CHHABRA APPEARED FOR THE
RESPONDENT WITH MUDIT MAHESHWARI, LEARNED COUNSEL
FOR THE RESPONDENT [OBJ].
PROXY COUNSEL SHRI PRANAY JOSHI PL APPEARING ON
BEHALF OF ADVOCATE GENERAL.***

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

ORDER

This is the first anticipatory bail application filed under Section 438 of the Code of Criminal Procedure, 1973. The applicant is apprehending his arrest in connection with Crime No. 315/2022 registered at P.S. - Khudel District Indore (M.P.) for commission of offence punishable under Section 406, 409, 418 and 420 of IPC.

As per the prosecution story, complainant Satbeer Singh Chhabra is Director of M/s Grand Consulting Services Pvt Ltd. He entered into an agreement to sale dated 4.8.2014 with the company through the applicant for purchase of land bearing survey No. 122/6, admeasuring 0.759 hectare situated at village Hasakhedi for consideration of Rs. 63,33,000/- and he paid Rs. 45 lakhs to the present applicant and issued three cheques of Rs. 5 lakhs each to the applicant and balance amount of Rs. 3,33,000/- was to be paid at the time of execution of registered sale deed but applicant sent a notice dated 20.2.2015 to the objector falsely alleging that the sale consideration of subject land was agreed at Rs. 2,37,00,000/- with one Sudhir Verma. The complainant replied the legal notice and denied the alleged consideration of Rs. 2,33,00,000/- by reiterating that Rs. 45 lakhs has been paid in cash and three cheques of Rs. 5 lakhs have been given to the applicant. The substantial amount has been paid by him therefore, applicant has no right to forfeit the amount and applicant was called to execute the sale deed within one month. The complainant is ready and willing to pay the balance amount but applicant was not executing the sale deed in favour of

complainant. On 20.11.2021 present applicant told one Sandeep Barjatya who is friend of objector that he had forfeited the amount therefore the present applicant committed cheating, misappropriation and fraud with the complainant. Complainant lodged the FIR at police station Khudel. Accordingly offence has been registered against the applicant.

Learned counsel for the applicant submits that the applicant is innocent and he has been falsely implicated in this matter. He is 68 years old person. After lapse of the period of 8 years false FIR has been registered under the influence of complainant and his associates and present applicant has been implicated in the crime by converting a simple civil dispute into a criminal case. As per agreement dated 4.8.2014 there was a condition that entire remaining amount would have to be paid by complainant to the company within four months from 5.8.2014 and in absence of which any advance given would stand forfeited. Therefore, as per agreement advance amount has been forfeited. The applicant is a senior citizen and is suffering from various ailments. The matter is completely based upon documentary evidence. The complainant alongwith his associates are pressurizing the applicant to get the sale deed executed in their favour. Learned counsel placed reliance upon order dated 17.6.2022 passed by this court in M.Cr.C. No. 28311/2022 in the matter of Mohd Yusuf Vs. State of MP and prays that the applicant be released on anticipatory bail.

Per-contra, learned PL for respondent/State opposes the bail application and prays for its rejection.

On the other hand learned counsel for objector /Satbeer Singh Chhabra opposes the anticipatory bail application and prays for its rejection by submitting that as per the agreement to sale dated 4.8.2014 consideration amount was Rs. 63,33,000/- but applicant with the motive of cheating and fraud sent a notice dated 20.2.2015 by falsely alleging that sale consideration of subject land was agreed to Rs. 2.37 crore, the objector was always ready and willing to pay the balance amount but present applicant denied for the same. The applicant has received substantial payment of Rs 45 lakhs from complainant but he has denied the execution of sale deed, hence he does not deserve for anticipatory bail.

Perused the case diary as well as the impugned order passed by the court below.

The Hon'ble Apex court in the case of **Shivnarayan Laxminarayan Joshi and other Vs. State of Maharashtra reported in (1980) 2 SCC 465** has held that bank director is not only an agent but a trustee having dominion or control over the bank property which comes into his land. Such property is a chose in action-do facto. The managing director committing misappropriation of property without substituting in lieu thereof securities of equal amount is held liable for the same.

Learned counsel for applicant has placed reliance upon

judgment of the Hon'ble Apex court in the case of **Arnesh Kumar Vs. State of Bihar reported in (2014) 8 SCC 273** but in the present case the alleged offence is punishable for the period of more than 10 years and life imprisonment also, therefore, principle laid down in the said case is not applicable in the present matter. Prima facie it is established that the applicant after executing the agreement to sale and receiving substantial amount of Rs. 45 lakhs denied execution of registered sale deed and not returned the said amount to complainant after lapse of 7 years by alleging that the sale consideration is Rs. 2,37,00,000/-.

Considering all the facts and circumstances of the case, nature and gravity of allegation and also taking note of the fact that investigation is at the initial stage and on the basis of prima facie evidence available on record, at this stage, present applicant does not deserve for grant of anticipatory bail.

Hence first anticipatory bail application filed by applicant under Section 438 of Cr.P.C. is accordingly dismissed.

C.C. as per rules.

(ANIL VERMA)
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