



**IN THE HIGH COURT OF MADHYA PRADESH  
AT JABALPUR**

**BEFORE**

**HON'BLE SHRI JUSTICE G. S. AHLUWALIA**

**ON THE 15<sup>th</sup> OF OCTOBER, 2024**

**MISC. CRIMINAL CASE No. 23031 of 2024**

***SHARAD AGARWAL***

*Versus*

***THE STATE OF MADHYA PRADESH***

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**Appearance:**

*Smt. Rashmi Pathak – Advocate for applicant.*

*Shri Mohan Sausarkar – Government Advocate for respondent/State.*

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**ORDER**

Case diary is available.

2. This first application under Section 438 of CrPC/482 of BNSS has been filed for grant of anticipatory bail.
3. Applicant is apprehending his arrest in connection with Crime No.45/2020 registered at Police Station – Civil Lines, Chhatarpur for offence under Sections 420, 467, 468, 469, 470, 471 r/w Section 34 of IPC.
4. It is submitted by counsel for applicant that according to the prosecution case, the land in dispute was originally recorded as a government land. Thereafter, a temporary *Patta* was granted to one Viliam Tirki for a period of five years. The said *Patta* was never extended and, therefore the life of *Patta* came to an end sometimes in the year 1977. Admittedly, the said *Patta* was never extended. However, in the year 1983-



84, the revenue authorities recorded the names of Ramswaroop, Sarman Devi and Ram Sevak as Bhumi Swami. According to the complainant, the said mutation was done contrary to record and by mentioning incorrect case number. No order of allotment of land to above three persons was ever passed. Thereafter, Sarman Devi, Ramswaroop and Ram Sevak alienated the property to various persons, which ultimately came to applicant. Applicant in his turn has alienated to *Prakhar Samajotthan Pragati Samiti*. It is submitted that names of Sarman Devi, Ramswaroop and Ram Sevak were mutated sometime in the year 1983-84 whereas the applicant has purchased the land in the year 2010. It is submitted by counsel for applicant that applicant is *bonafide* purchaser and he was not aware of the fact that the names of Sarman Devi, Ramswaroop and Ramsevak were wrongly recorded in the revenue records. If that was done, then the revenue authorities are also responsible for the same. It is submitted that a Coordinate Bench of this Court by order dated 31.12.2020 passed in M.Cr.C.No.12284/2020 had granted anticipatory bail to co-accused Prem Chandra Gupta who had also purchased a part of land by a sale deed executed by Shekh Jahoor who purchased the land from Sarman Devi. It is submitted that so far as the present applicant is concerned, the applicant had filed M.Cr.C.No.7431/2020 and in said proceedings an interim protection was granted. Ultimately by order dated 06.05.2024, the application filed by the applicant under Section 482 of Cr.P.C. has been dismissed, therefore it cannot be said that the applicant was absconding. The case of the applicant is identical to the case of co-accused Prem Chandra Gupta who has already been extended the benefit of anticipatory bail.

5. *Per contra*, the application is vehemently opposed by counsel for



State. By referring to certain observations made by this Court while deciding the application filed by applicant under Section 482 of Cr.P.C., it is submitted that once this Court has come to a conclusion that *prima facie* offence registered against the applicant is made out, then he is not entitled for anticipatory bail but fairly conceded that the co-accused Prem Chandra Gupta has already been granted anticipatory bail by order dated 31.12.2020 passed in M.Cr.C.No.12284/2020.

6. Considered the submissions made by counsel for parties.
7. Admittedly, allegations made against present applicant and co-accused Prem Chandra Gupta are identical. The basic allegations are that they have purchased land, which was illegally mutated in the name of Sarman Devi, Ramswaroop and Ram Sevak.
8. So far as the observations made by this Court in proceedings under Section 482 of Cr.P.C. is concerned, the scope of said proceedings are completely different. The basic question involved in said proceedings was as to whether any offence under Sections 420, 467, 468, 469, 470, 471 r/w Section 34 of IPC is made out or not. The scope of application under Section 438 of Cr.P.C. is as to whether applicant is entitled for anticipatory bail or not.
9. Admittedly, applicant was granted interim protection by order dated 20.02.2020 passed in M.Cr.C.No.7431/2020 and the said interim protection continued till 06.05.2024 when the application under Section 482 of Cr.P.C. was dismissed. Thus, by no stretch of imagination, it can be said that applicant was absconding during this period.
10. Under these circumstances, this Court is of considered opinion that once co-accused Prem Chandra Gupta has been granted anticipatory



bail and in absence of any distinguishable feature, the application filed by applicant for grant of anticipatory bail is also liable to be **allowed**.

11. Accordingly, it is directed that in case if applicant appears before the Investigating Officer on or before **24.10.2024** and furnishes a personal bond in the sum of **Rs.1,00,000/- (Rupees One Lakh Only)** with one surety in the like amount to the satisfaction of the Investigating Officer, then he shall be released on anticipatory bail. The applicant shall appear before the trial Court on all the dates, which may be fixed by the trial Court in that regard.

12. This bail order shall continue till conclusion of trial. However, in case of bail jump, his bail shall automatically stand canceled.

13. It is made clear that in case if the applicant fails to appear before the Investigating Officer on or before 24.10.2024, then this anticipatory bail order shall automatically come to an end.

14. In the light of judgment passed by the Supreme Court in the case of **XYZ and Others Vs. State of Madhya Pradesh and Another** reported in **(2021) 16 SCC 179**, intimation regarding grant of bail be sent to the complainant.

15. With aforesaid observations, application is **allowed**.

**(G.S. AHLUWALIA)**  
**JUDGE**