

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.35867 of 2016

Arising Out of PS.Case No. -3556 Year- 2015 Thana -PURNIA COMPLAINT CASE District-
PURNIA

- =====
1. Akhilesh Kumar Verma Son of Late Sukhdeo Prasad Verma at Village- North Pokhariya Gulab Bag, P.S. Sadar District- Purnea.
 2. Bishesh Kumar Verma, son of Late Sukhdeo Prasad Verma of Professor Coloney, P.S- K. Hat, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Md. Shakeel son of Md. Khalil, R/o Village- Korathbari, P.S.- District Purnea.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dr. Bidhu Ranjan

For the Opposite Party/s : Mr. Sri Nawal Kishore Prasad

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CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN SHARMA

ORAL ORDER

5 09-02-2017 Heard the learned counsel for the petitioners, the learned A.P.P. for the State as also the learned counsel for the Complainant.

In this application for anticipatory bail the petitioners apprehend their arrest in connection with C.A. Case No. 3556 of 2015 for the offence punishable under section 420/34 of the I.P.C.

Allegedly, the petitioners took Rs. 9,51,000/- to sell the land for Rs. 36,63,500/- but neither the petitioners executed the sale deed nor is ready to return the amount and cheated the complainant.

Submission is of false implication and that for breach



of contract no criminal liability is made out, it is a civil dispute, the learned counsel for the petitioners has relied upon the decision reported in 2009 (14) Supreme Court Cases, page-696 in the matter of 'Dilip Kaur & Ors Vs. Jagnar Singh & Anr' and submitted that non refunding of the amount of advance results in simply a breach of contract and does not constitute cheating or criminal breach of trust, after that it is submitted that the petitioners have already returned the said amount but the complainant is denying such payment and as such the petitioners deserve sympathetic consideration.

The learned A.P.P. duly assisted by the learned counsel for the complainant opposes prayer for pre-arrest bail of the petitioners by submitting that from the very inception the intention of the petitioners was to cheat the complainant and ultimately cheated him after forging the signature of the complainant, the petitioners are showing that the advance amount has already been paid and as such it is clear case of cheating.

In the facts and circumstances as stated above, considering the allegation and finding that it is purely a civil dispute and as such the petitioners, in case of their arrest or surrender within four weeks from the date of receipt/production of a copy of this order shall be released on bail on furnishing bail



bonds of Rs. 10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of. C.J.M. Purnea in connection with above mentioned case, subject to the conditions as laid down in section 438 (2) of the Cr.P.C.

(Jitendra Mohan Sharma, J)

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