

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31729 of 2017

Arising Out of PS.Case No. -586 Year- 2016 Thana -MADHEPURA District- MADHEPURA

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1. Debo Yadav, son of Khakhar Yadav,
 2. Yogendra Yadav, son of Soti Yadav, both resident of Village- Beltari, (Rupauli), Police Station- Jankinagar, District- Purnea.

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Durgesh Kumar

For the Opposite Party/s : Mr. Sri Iftekhar Mahmood

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

10 09-01-2018

Heard learned counsel for the petitioners and the State.

The petitioners apprehend arrest in Madhepura P.S. Case No. 586 of 2016 instituted for the offence under Sections-406, 420 of the Indian Penal Code.

It is alleged in the written report that the petitioner No. 1 received an amount of Rs. 2,25,000/- from the informant for purchase of land but this petitioner neither returned the money nor executed the sale deed.

In the written report, it is alleged that Rs. 2,25,000/- was given to petitioner No. 1 as advance on 02-04-2016 and petitioner No. 1 after counting the money, gave the same to petitioner No. 2. The petitioner No. 1 being broker had talked for purchase of land from the land lord Basant Sah but the petitioner neither got the sale deed executed in favour of the informant nor returned the money.



The petitioner has filed supplementary affidavit in which he has stated that he is ready to execute the sale deed with respect to the land as mentioned in Annexure-4 of the second supplementary affidavit, for consideration amount of Rs. 16,00,000/-. The counsel for informant has submitted that the aforesaid land does not belong to the petitioner and he does not want to give further money to the petitioner for the aforesaid land. He has submitted that he is ready to accept the amount of Rs. 2,25,000/- which he had given to petitioner No. 1 for purchase of the land.

It has been submitted on behalf of petitioner No. 1 that he is not in a position to make payment of money but he will execute sale deed as mentioned in Annexure-4. But the informant is not ready to accept the same as he has stated, that the aforesaid land, does not belong to the petitioner.

Counsel for the informant has submitted that initially, the petitioner No. 1 refused to accept that he has received money but when FIR of Jankinagar P.S. Case No. 67 of 2016 was filed by the informant, then he admitted about the receipt of the money.

In such circumstances, this court finds that there is specific allegation against petitioner No. 1 of receiving the money by misrepresentation and accordingly, prayer of anticipatory bail of petitioner No. 1 stands rejected.

The petitioner No. 1 is directed to surrender in the court below and seek regular bail which will be considered and disposed of



on its own merit without being prejudiced by this order.

So far allegation against petitioner No. 2 is concerned, it is merely alleged that petitioner No. 1 gave the amount to petitioner No. 2 for counting.

In such circumstances, prayer for anticipatory bail of petitioner No. 2 is allowed and it is ordered that the petitioner No. 2 named above in the event of his arrest or surrender in the court below within six weeks from the date of receipt/production of copy of this order, shall be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each in connection with in Madhepura P.S. Case No. 586 of 2016 to the satisfaction of learned Chief Judicial Magistrate, Madhepura subject to condition as laid down u/S 438(2) of the Cr.P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioner No. 2 shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason will be liable to cancel his bail bond and (3) if petitioner No. 2 tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner No. 2.

(Sanjay Priya, J)

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