

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.12709 of 2018

Arising Out of PS. Case No.-435 Year-2017 Thana- BHAGALPUR KOTWALI District-
Bhagalpur

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1. Deep Narayan Mandal, S/o Late Lakhan Mandal,
 2. Bina Devi W/o Sri Deep Narayan Mandal,
 3. Jainy @ Jhony Mandal S/o Sri Deep Narayan Mandal, All R/o at Jeevu Jha Lane Choti Khanjarpur, P.S.- Barari, District- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Bikash Kumar Kedia S/o late Bijay Kumar Kedia, R/o Mohalla- Asarganj, P.S.- Asarganj, District- Bhagalpur.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manoj Kumar Sinha
For the Opposite Party/s : Mr. Sri Umanath Mishra

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 26-04-2018 Heard learned counsel for the petitioners and learned APP
for the State.

Petitioners apprehend their arrest in Kotwali (Barari)
P.S. case no. 435 of 2017 instituted for the offence under
Section(s) 406 and 420 of the Indian Penal Code.

It is alleged in the written report that an agreement was
entered into between the informant/opposite party no.2 and
petitioner no.1 on 26.9.16 for sale with regard to land
appertaining to holding no. 4/4B, khata no. 605, khesra no. 80,
81 (Ka) (kha), 83, 84 (ka) (kha) area 720 Sq. Ft. situated at
Mohalla- Choti Khanjarpur (Jeevu Jha Lane), P.S. Barari,



Bhagalpur for total consideration of Rs. 35 lacs. The informant has made payment of Rs. 13 lacs to the petitioner no.1 through three different cheques and rest amount of Rs. 22 lacs was to be paid at the time of execution of sale deed as stated in the agreement. The opposite party no. 2 (informant) made request with petitioner no.1 to execute the sale deed after receiving an amount of Rs. 22 lacs but he always delayed the matter and did not execute the sale deed. Legal notice was also sent to petitioner no.1.

Learned counsel for the petitioners has submitted that wife of petitioner no.1, namely, Bina Devi (petitioner no.2 in this case) was suffering from kidney trouble and her treatment was going on at Sanjay Gandhi Post Graduate Institute of Medical Science, Rai Bareli Road, Lucknow and therefore the sale deed could not be executed. He has enclosed the medical prescription of the petitioner no.2 as Annexure-2 series to the bail petition. He has further submitted that he is ready to execute the sale deed after receiving an amount of Rs. 22 lacs from the informant.

The counsel for informant has submitted that he is ready to make payment of Rs. 22 lacs to the petitioner.

In such circumstances, the application is disposed off



with a direction to the petitioners to surrender before the court below i.e. CJM, Bhagalpur, within a period of four weeks from the date of receipt/production of a copy of this order along with an affidavit that petitioner no.1 will execute the sale deed with respect to the land as mentioned in the agreement entered into between the parties on 26.9.16 as soon as he will receive an amount of Rs. 22 lacs from the opposite party no.2 and in that event, the court below will release the petitioners on provisional anticipatory bail, for six months in connection with Kotwali (Barari) P.S. case no. 435 of 2017 on furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to its own satisfaction, subject to the conditions as laid down under Section 438 (2)Cr. P.C. with further conditions:(1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioners 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 automatically cancel bail bond of the petitioners and (3) if petitioners tamper 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 petitioners.



The opposite party no.2 will make payment of Rs. 22 lacs to the petitioners within a period of three months from the date of their surrender in court below and thereafter after receiving an amount of Rs. 22 lacs, the petitioners will execute the sale deed within a period of one month from the date of receipt of the payment of Rs.22 lacs and thereafter the provisional anticipatory bail of the petitioners will be confirmed by the Court below.

It is made clear that in the event the petitioners refuse to execute the sale deed within a period of one month after receiving Rs. 22 lacs from the opposite party no.2, the court below will be at liberty to cancel the bail bond of the petitioners and pass appropriate order in accordance with law without being prejudiced by this order.

It is also made clear that in the event the informant does not make payment of Rs. 22 lacs to the petitioners within a period of three months of their surrender, the Court below will confirm the provisional bail of the petitioners after expiry of three months.

(Sanjay Priya, J)

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