

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31992 of 2017

Arising Out of PS.Case No. -115 Year- 2016 Thana -EAST CHAMPARAN COMPLAINT District-
EASTCHAMPARAN(MOTIHARI)

- =====
1. Sanjay Kumar, Son of Prabhu Patel, Resident of Village- Ahirwa Tola, Raxaul, P.S.- Raxaul, District- East Champaran.
 2. Pawan Kumar Maskara, Son of Late Rameshwar Maskara,
 3. Beena Devi, W/o Pawan Kumar Maskara,
 4. Nilu Kumari @ Nilu Kumari Maskara, D/o Pawan Kumar Maskara,
- All are Resident of Village- Handi Bazar, P.S.- Raxaul, District- East Chaparan.
5. Prabhu Patel, Son of late Rupan Raut, Resident of Village- Ahirwa Tola Raxaul, P.S.- Raxaul, District- East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Parvati Sinha, W/o Dr. Shreenath Singh, R/o Block Road, Ward No. 16 Raxaul, P.s.- Raxaul, District- East Champaran.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Vijay Shankar Shrivastava, Advocate
For the Complainant : Mr. Dhurendra Kumar, Advocate.
For the Opposite Party/s : Mr. Ganesh Prasad Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

6 16-01-2018 Heard learned counsel for the petitioners and the

State.

The petitioners apprehend their arrest in **Trial No.**
3026 of 2017 arising out of Complaint Case No. C 115 of 2016
instituted for the offence under Sections 420, 406 and 120(B) of
the Indian Penal Code.

It has been submitted on behalf of the petitioners that
they received amount of Rs.24,25,000/- through cash and cheque



for the land measuring an area of 1 Kattha 3 Dhurs. It has further been submitted that rate for sale of the land was fixed @ Rs. 3,00,000/- per dhur. The petitioner is ready to execute the sale deed at the aforesaid rate for the entire land measuring 1 Kattha 3 dhurs, if the complainant makes payment to them on the aforesaid rate. It has further been submitted that the petitioners are also ready to return the amount of Rs.24,25,000/- in the event the complainant wants to take back the money.

Learned counsel for the complainant has appeared and submitted that the rate was fixed at Rs.1,50,000/- per Dhur and in terms of the aforesaid rate, he has made payment of Rs.28,87,500/- but the petitioners are not executing sale deed.

There is no any document in support of the statement of the complainant that the rate of the land was fixed @ 1,50,000/- per Dhur. Therefore, this Court cannot give any finding on such disputed question of fact with regard to the rate fixed between the parties for sale of land. However, the petitioners admit that they have received amount of Rs.24,25,000/- and also submit that they are ready to execute the sale deed @ Rs.3,00,000/- per Dhur or return an amount of Rs.24,25,000/-.

In such circumstances, this application is disposed off with direction to the petitioners to surrender in the court below i.e.



Sub Divisional Judicial Magistrate, Raxaul at Motihari, East Champaran, within a period of eight weeks from the date of receipt/production of a copy of this order and make payment of Rs. 5,00,000/- to the complainant by way of Demand Draft and thereafter, the court below will release the petitioners on provisional anticipatory bail to its own satisfaction for a period of six months in connection with **Trial No. 3026 of 2017 arising out of Complaint Case No. C 115 of 2016** 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 petitioner 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 petitioners will make payment of remaining amount of Rs.19,25,000/- which is admitted by the petitioners within a period of six months. After making full payment of the entire amount and on producing valid receipts of making payment of the aforesaid amount of Rs.24,25,000/- to the informant by way



of demand draft, the court below will confirm the provisional anticipatory bail of the petitioners after six months.

It is made clear that in the event the informant agrees to purchase land at the rate mutually agreed between the parties in that event the petitioners will execute the sale deed after receiving full consideration amount from the informant.

It is made clear that in the event petitioners make default in making payment as ordered above, the court below will be at liberty to pass appropriate order in accordance with law including cancellation of provisional anticipatory bail granted to the petitioners.

(Sanjay Priya, J)

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