

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.9510 of 2019

Arising Out of PS. Case No.-2104 Year-2012 Thana- SARAN COMPLAINT CASE District-
Saran

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1. RAJENDRA PRASAD SINGH @ RAJENDRA SINGH @ RAJENDRA PD. SINGH S/o Late Shivpujan Singh
 2. Shashi Shekhar @ Shashi Singh Son of Rajendra Prasad Singh @ Rajendra Singh
Both permanent resident of Chandmari Road, P.S.- Chapra Mufassil, P.O.- Tari, District-Saran.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Suraj Manjhi S/o Binda Manjhi R/o Village- Atarsan, P.S.- Rasulpur, District- Saran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Tej Pratap Singh
For the Opposite Party/s : Mr.Abhay Kumar

CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA
ORAL ORDER

3 24-04-2019 Heard the parties.

The petitioners are apprehending their arrest in connection with Complaint Case No.2104 of 2012 registered for offences punishable under Sections 420 and 406/34 of the Indian Penal Code .

Allegation against the petitioners as per the complaint petition is that one Ramashanker Singh introduced the complainant to the petitioners who are owners of the Agency having dealership of Tafe Tractors and the petitioner agreed to manage the finance of the Tractor for the complainant and



asked the complainant to deposit the down payment of Rs.1,50,000/- and the complainant deposited the same in cash in presence of the witnesses. Further case is that the petitioner no.1 assured the complainant that he would manage the finance and got signature of the complainant on some documents and unfilled forms and on that basis he got the finance approved from M/s Magma Fincon Ltd. for a sum of Rs.3,45,000/- which was received by the petitioner no.1. It is also the case of the complainant that thereafter the complainant was made to run for the Tractor, which has not been received till date and when the complainant went to remind the petitioner no.1 he informed that he had given the Tractor to some another person and assured the complainant that he would return the loan amount in installment to the finance company and the complainant being simpleton person believed the same as the petitioner no.1 was depositing the installment to the Finance Company but when the petitioner no.1 stopped depositing the installment, the complainant received legal notice and he came to know that he has been cheated by the petitioners then he filed the present case. It further appears from perusal of the record that in this case the cognizance was taken on 18.11.2013 .

Submission of the learned counsel for the petitioners



is that the petitioners have falsely been implicated in this case as the petitioners had handed over the tractor purchased by the complainant to a different person which will also appear from the fact that the complainant took no steps to recovery of the amount of Rs.1,50,000/- given in cash nor made any complaint before any forum and even not raised in grievance in the complaint petition about payment of Rs.1,50,000/- rather later of the approval of the Finance Company of the loan of Rs.3,45,000/- was forwarded to the Agency of the petitioners, which is Annexure 3 and the proposal and delivery orders are also in the name of the complainant and once the same has been delivered there is no role of the petitioners. It has also been submitted that he has not received any summon or warrant and non-bailable warrant even the processes under Section 82 and 83 of the Cr.P.C. was never complied, which also appear from the entire order-sheet of the court below annexed as Annexure-2, as such he could not pray for anticipatory bail earlier.

Heard learned A.P.P. and the learned counsel for the complainant.. They have opposed the prayer for bail on the ground that in this case the processes under Section 82 and 83 of the Cr.P.C. have already been issued as such this anticipatory bail application is not maintainable.



Having heard both sides and considering the fact that the cognizance has been taken in the year 2013, I am not inclined to grant privilege of anticipatory bail to the petitioners, however, if the petitioners surrender before the learned court below within a period of six weeks from the date of order and make prayer for regular bail, the same shall be considered on the basis of submissions as made above and the lower court shall also verify the submission of the petitioners that though the order sheet shows issuance of summons, warrant and non-bailable warrant and also processes under Section 82 and 83 of the Cr.P.C. but *prima facie* it does not show any compliance report.

Considering all the aspect of the matter, the learned court below shall dispose of the prayer for bail of the petitioners, if possible on the same day.

With the aforesaid direction, this application is dismissed.

(Vinod Kumar Sinha, J)

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