

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.13735 of 2019**

Arising Out of PS. Case No.-389 Year-2018 Thana- DIGHA District- Patna

1. Subodh Kumar, Son of Sri Ram Udar Rai, R/o Mohalla- Yaduvanshi Nagar, P.S- Digha, District- Patna.
2. Anil Kumar, Son of Sri Ramadhar Rai, R/o Mohalla- Yaduvanshi Nagar, P.S- Digha, District- Patna

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

with

**CRIMINAL MISCELLANEOUS No. 12647 of 2019**

Arising Out of PS. Case No.-389 Year-2018 Thana- DIGHA District- Patna

1. Jagat Rai @ Jagat Narayan Rai, Son of Late Shiv Dayal Rai, Resident of Mohalla- Yaduvnshi Nagar, P.S.-Digha, District- Patna.
2. Jitendra Kumar, Son of Ramjee Rai, Resident of Mohalla- Yaduvnshi Nagar, P.S.-Digha, District- Patna.
3. Dharmendra Kumar, Son of Ramjee Rai, Resident of Mohalla- Yaduvnshi Nagar, P.S.-Digha, District- Patna.
4. Rahul Kumar, Son of Sri Ram Nepal Rai, Resident of Mohalla- Yaduvnshi Nagar, P.S.-Digha, District- Patna.
5. Akshay Kumar @ Bakhera Rai, Son of Sri Uma Nath Rai, Resident of Mohalla- Yaduvnshi Nagar, P.S.-Digha, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar.

... .. Opposite Party/s

**Appearance :**

(In both the cases)

|                          |   |                                                                                                                                    |
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| For the Petitioner/s     | : | Mr. Rama Kant Sharma, Sr. Advocate<br>Mr. Lakshmi Kant Sharma, Advocate<br>Mr. Rajesh Kumar, Advocate                              |
| For the opposite Party/s | : | Mr. Ram Sumiran Rai, APP                                                                                                           |
| For the Informant        | : | Mr. Sandeep Kumar, Advocate<br>Mr. Nikhil Kumar Agrawal, Advocate<br>Mr. Aditi Hansaria, Advocate<br>Mrs. Deepika Sharma, Advocate |

**CORAM: HONOURABLE MR. JUSTICE VINOD KUMAR SINHA**  
**ORAL ORDER**



4      26-06-2019                      Criminal Misc. No.13735 of 2019 & Criminal Misc. No. 12647 of 2019 are arising out of Digha P.S. Case No. 389 of 2018 for the offences under Sections 341, 323, 504, 506, 387, 379, 34, 120B & 420 of the Indian Penal Code and both the cases are for the same occurrence. Hence, for the sake of convenience both case are being taken up together for disposal of the same.

These are the applications for grant of anticipatory bail in connection with Digha P.S. Case No. 389 of 2018, disclosing offences under Sections 341, 323, 504, 506, 387, 379, 34, 120B & 420 of the Indian Penal Code.

Prosecution case as per the F.I.R. is that the informants are the Directors of Anmol Home Pvt. Ltd. and they were reached into the agreement for construction of multi story building of 10200 sq. feet of land including the land of the petitioners in Criminal Misc. No. 13735 of 2019 and as per agreement the petitioners are entitled for 5100 sq. feet constructed area. When the construction work started, the petitioners started creating hindrance and nuisance in the construction work and demanding 6000 sq. feet area instead of 5100 sq. feet are. Further case is that the informant became ready to give 6000 sq. feet area, but thereafter, they started



demanding 12000 sq. feet area and they stopped the construction work by creating unlawfully assembly and threatened them and not allowing the construction work to proceed.

Submission of learned counsel for the petitioners in Criminal Misc. No. 13735 of 2019 is that they are owners of the part of land and petitioners in Criminal Misc. No. 12647 of 2019 are the Panches in the Panchayat held earlier.

Submissions of both the petitioners are that in the deed of agreement there is an arbitration clause and instead of invoking the arbitration clause, the present case has been filed by the informant and further the materials clearly shows that the case is purely of civil nature relates to commercial transactions between the parties and in order to exert the pressure, the complainant has lodged the present case against the petitioners.

Heard learned A.P.P. as well as learned counsel for the opposite party no.2 also, who has opposed the prayer for bail on the ground that petitioners are creating nuisance and not allowing the informant and his worker to proceed with the construction and they were also assaulted.

It further appears that considering the nature of the allegations, the matter was also referred to Patna High Court



Mediation and Conciliation Center, but mediation did not succeed, it appears from the report.

Having heard both sides, considering the aforesaid facts and circumstances, as stated above, let the petitioners, above named, in both the cases, surrender before the court below within a period of six weeks and on surrender or arrest, they will be released on bail on furnishing bail bond of Rs.25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount to the satisfaction of learned S.D.J.M., Patna, in connection with Digha P.S. Case No. 138 of 2013, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure with further condition that they will not create any nuisance and hindrance in the construction work, rather whatever complain, they have, they may invoke the arbitration clause and go for the arbitration.

With the aforesaid observations, both the applications are disposed of.

**(Vinod Kumar Sinha, J)**

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