

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16418 of 2019

Arising Out of PS. Case No.-466 Year-2018 Thana- DANAPUR District- Patna

1. Raj Mangal Singh, Son of Late Makeswar Singh R/o village- New Gosai Tola, Gola Road, Near Dr. D. Ram D.A.V. Public School, P.S.- Danapur, Distt.- Patna
2. Utakarsh Kumar @ Utakarsh Kumar Singh, Son of Sri Krishna Singh @ Ravi Ranjan Singh R/o village- New Gosai Tola, Gola Road, Near Dr. D. Ram D.A.V. Public School, P.S.- Danapur, Distt.- Patna
3. Ujjawal Kumar Son of Sri Krishna Singh @ Ravi Ranjan Singh, R/o village- New Gosai Tola, Gola Road, Near Dr. D. Ram D.A.V. Public School, P.S.- Danapur, Distt.- Patna

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ajay Kumar Singh
For the Opposite Party/s : Mr.Mukesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 12-07-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

Petitioners apprehend their arrest in connection with
Danapur P.S. Case No.466 of 2018 for the offence punishable
under Sections 420, 406, 468/34 of the Indian Penal Code.

The allegation against these petitioners that the
petitioners in conspiracy with each other entered into an
agreement for sale of house standing in the name of Pyaro Devi
@ Butani Devi, w/o Raj Mangal Singh and the informant at the
time of discussion about the sale of the house was told the entire



consideration amount of the house would be Rs.36,51,000/- and it was also told that only after payment of 15 lakhs rupees the agreement of sale would be executed by the petitioners and their family members. It was also told that so long as agreement was not executed, the amount will be accepted only in cash. It has further been alleged that as per the discussion, the informant paid a sum of Rs. 15,51,000/- to the petitioners and their family members and after payment of Rs.15,51,000/- on 31.03.2017 agreement was executed and a total sum of Rs.36,51,000/- towards total consideration price of the house was paid by the informant by 26.05.2017 on various dates. The consideration amount has been paid under receipt and despite receipt of entire consideration amount sale deed is not being executed.

Learned counsel for the petitioners submits that the petitioners are innocent inasmuch the agreement was entered into between the informant and Pyaro Devi, w/o petitioner No.1 and other accused persons are not responsible for sale of house in favour of the informant as such, no case is made out against the other accused persons.

Learned counsel for the petitioners further submits that offences under Sections 406, 420, 468, are not made out against these petitioners inasmuch as on the bare reading of the



First Information Report at best the case is of civil nature for which civil remedies are available to the informant. Accordingly, learned counsel for the petitioners submits that petitioners deserve privilege of anticipatory bail.

On the other hand, learned counsel for the informant has filed his counter affidavit in which he has brought on record the agreement for sale between the wife of petitioner No.1 and the informant in which the acknowledgment of payments received by petitioner No.1 and 2 are there and petitioner No.2 has signed on all the pages of the agreement endorsing payment towards the entire consideration amount received by other petitioners and Pyari Devi @ Butni Devi. Learned counsel for the informant further submits that from the very beginning, the intention of the petitioners was to deceive and cheat the petitioners by alluring the petitioners to pay a huge consideration amount towards sale of the house and after receipt of the entire amount, the petitioners are evading to execute the deed of sale in favour of informant. Learned counsel for the informant further submits that one of the accused person, i.e., son of of petitioner No.1, namely, Vikramaditya, has been arrested in the present case. Learned counsel further submits that cheating and allurement of the informant would further be



evident from the fact that just prior to entering into the agreement with the informant, the petitioners and their family members had entered into agreement for sale of the same house with one Mukesh Kumar and received a sum of Rs. 12 lakhs from Mukesh Kumar which has been brought on record in counter affidavit filed by the informant at Annexure 'B'. Learned counsel, therefore, submits that from the very beginning, the intention is clear that petitioners and their family members under deep conspiracy has entered into an agreement for sale with another person and received considerable amount from that person and subsequently, thereafter the petitioners and others entered into an agreement for sale with the informant and received huge amount of Rs. 36,51,000/- in order to grab the amount of the petitioners dishonestly. Accordingly submission of learned counsel for Opposite party that prima facie an offence registered under Section 406, 420, 34 is made out against these petitioners and they do not deserve privilege of anticipatory bail.

After having heard learned counsel for the petitioners and learned counsel appearing for the informant and State and taking into consideration the fact that informant has paid the entire amount of the house in favour of the petitioners and their family members and all the accused persons are related to each



other and it appears that under the conspiracy, they entered into an agreement for sale with another person for the same house and received considerable amount of Rs. 12 lakhs and just thereafter for the same house, the petitioners and others accused persons had entered into another agreement for sale with the informant and received Rs.36,51,000/-, accordingly, I am not inclined to grant anticipatory bail to these petitioners and the same is hereby rejected.

(Anil Kumar Sinha, J)

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