

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17607 of 2019

Arising Out of PS. Case No.-539 Year-2018 Thana- PATLIPUTRA District- Patna

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| <div style="display: flex; flex-direction: column; gap: 5px;"><div>1. PRABHAS KUMAR @ PRABHAT KUMAR</div><div>2. Dilip Narayan
Both sons of Late Phuleshwar Prasad Yadav Resident of House No.2 /5,
Vivekanand Park, Patliputra Colony, P.S.- Patliputra, Town and District-
Patna</div></div> | ... | ... | Petitioner/s |
| Versus | | | |
| <div style="display: flex; flex-direction: column; gap: 5px;"><div>1. The State of Bihar</div><div>2. Priya Ranjan Srivastav, son of late Hira Nand Prasad, r/o Saket Vihar, Mitra
Mandal Colony, Anisabad, Patna-2.</div></div> | ... | ... | Opposite Party/s |
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Appearance :

For the Petitioner/s	:	Mr.Pankaj Maijorwar
For the Opposite Party/s	:	Mr.Rabindra Kumar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 30-07-2019 The petitioners apprehend their arrest in connection with Patliputra P.S.Case No. 539 of 2018 registered under Sections 406 and 420/34 of the Indian Penal Code.

Allegation against the petitioners is that petitioners have entered into an agreement for sale with the informant for allotment of flat No. 501 at Saryug Vihar, Gosaitola, Patna, for which informant was to pay consideration amount of Rs. 27 lacs. It has further been alleged that as per agreement, possession of the said flat was to be delivered in the month of September,2013 but despite the informant having been paid a sum of Rs. 30.65 lacs to the petitioners, the possession of the flat has not been delivered to the informant.



Learned counsel for the petitioners submits that there was delayed payment on the part of the informant as such as per agreement between the parties, informant was required to pay a sum of Rs. 31 lacs along with penalty. However, learned counsel for the petitioners accepts that informant has paid a sum of Rs. 30.65 lacs to the petitioners.

On the other hand, learned counsel for the informant submits that petitioners, being builder, have realised Rs. 30.65 lacs instead of Rs. 27 lacs which was consideration amount of the flat fixed between the parties as per agreement. He further submits that there was no provision in the agreement regarding penalty being charged by the builder i.e., petitioners.

However, learned counsel for the petitioners undertakes that petitioners are ready to hand over the possession of flat No. 501 at Saryug Vihar, Gosaitola, Patna within three weeks positively to the informant.

After having heard learned counsel for the parties and taking into consideration the fact that petitioners are ready to hand over the flat in question to the informant within three weeks, as such I am inclined to grant anticipatory bail to the petitioners subject to condition that possession of the flat in question shall be handed over to the informant within three



weeks positively.

Let the petitioners, abovenamed, in the event of arrest or surrender before the court below within a period of four weeks from the date of receipt of a copy of this order, be released on bail upon furnishing bail bond of Rs. 10,000/- each with two sureties of the like amount each to the satisfaction of the learned Sub Judge XII-cum-ACJM, Patna in connection with Patliputra P.S.Case No. 539 of 2018; subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

It is made clear that possession letter duly signed by the informant shall be part of surrender application filed by the petitioners before the court below.

(Anil Kumar Sinha, J)

sujit/-

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