

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.28654 of 2019

Arising Out of PS. Case No.-471 Year-2018 Thana- GAYA KOTWALI District- Gaya

1. Shambhu Nath Thakur, Son of Jagannath Thakur, Resident of Village-Samaspura, P.S.-Tisiauta, District-Vaishali.
2. Shashi Bhushan Thakur, Son of Baidyanath Thakur, Resident of Village-Samaspura, P.S.-Tisiauta, District-Vaishali.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Parties

Appearance :

For the Petitioner	:	Ms. Pratikritita Sharma, Advocate
		Mr. Navesb Nandan, Advocate
For the Opposite Party	:	Mr. Bal Mukund Prasad Sinha, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

4 17-08-2019 Heard learned counsel for the petitioners, learned counsel for the State and learned counsel for the informant.

The petitioner seeks pre-arrest bail in connection with (Gaya) Kotwali P.S. Case No.471 of 2018 registered for the offences punishable under Sections 420, 406, 504 and 506 read with 34 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioners that the petitioners are owners of the house in question and the sale deed was not executed, as the informant did not pay the rest of the consideration money. He has stopped the payment of cheque given to the petitioners. The petitioner no.1, Shambhu Nath Thakur has already lodged a Complaint



Case No.29079 of 2018, which is pending in the court of Chief Judicial Magistrate, Vaishali at Hajipur against the informant under Section 138 of the Negotiable Instruments Act for dishonour of cheque issued by him to the petitioners. She further contended that even if the entire allegations made in the first information report are taken to be true at their face value, at best, the same would be a case of civil dispute.

On the other hand, learned counsel appearing for the State and learned counsel appearing on behalf of the informant submitted that there is allegation that the petitioners and one another had cheated the informant. One Vinay Thakur entered into an agreement for sale of a house, as he had signed in place of Shambhu Nath Thakur. He also took advance of Rs. 2 lakhs. The petitioners agreed to sell a land and building and both of them took advance of Rs.2 lakhs each by cash and cheque also. The petitioner no.1, Shambhu Nath Thakur also took Rs.60,000/- and both of them signed on agreement, which forms part of the first information report. Later on, the informant came to know that already a suit is going on with regard to the land in question. Hence, he stopped further payment and demanded back his money. However, the petitioners did not return the money and threatened the informant of dire consequences.



Considering the nature of allegations and the defence taken by the petitioners, in the event of arrest or surrender in the court below within a period of six weeks, they are directed to be released on bail on furnishing bail bond of Rs.10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Gaya in connection with (Gaya) Kotwali P.S. Case No.471 of 2018 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Ashwani Kumar Singh, J.)

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