

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.33675 of 2019

Arising Out of PS. Case No.-702 Year-2017 Thana- SITAMARHI District- Sitamarhi

1. SHEKH SABIR ALI
2. Shekh Mehraj Ali
Both Sons of Liyakat Ali Resident of Ramanathpur, P.S.- Chandi Tala,
District - Hugli, West Bengal. Presently residing at ward no. 16 Sitamarhi,
P.S.- Sitamarhi Town, District - Sitamarhi.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Dr. Amrendra Kumar, Adv. Mr.Md. Anisur Rahman, Adv.
For the State	:	Mr.Anand Mohan Prasad Mehta, APP
For the Informant	:	Mrs. Madhubala Verma, Adv.

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

3 13-08-2019 Heard learned counsel for the petitioners and learned
APP for State as also learned counsel for the informant.

The petitioners in this case are seeking anticipatory
bail in connection with Sitamarhi P.S. Case No.702 of 2017
registered for the offences punishable under Sections 406 and
420/34 of the Indian Penal Code.

Learned counsel for the petitioners submits that from
reading of the allegations made in the complaint petition which
has given rise to First Information Report it will appear
that the whole matter relate to a commercial transaction. The
allegation is that the petitioners had taken 830.530 gms of gold



costing Rs.24 lacs from the informant with promise to convert them in ornaments and to return the same before 30.01.2016. They had also given Rs.3 lacs in cash to the informant for keeping trust.

Learned counsel for the petitioners submits that there appears to be some sort of business relationship between the parties and in course of that a dispute has arisen which cannot be said to be an act of cheating.

On the other hand, learned counsel representing the informant submits that in fact the petitioner no.1 has admitted in writing that he would return the gold. Learned counsel has produced before this Court a written document made in Bengali Language translated copy of the same has been produced to show that it is petitioner no.1 who had accepted his responsibility but then he is not abiding by the same. It is submitted that right from inception the intention of the petitioner no.1 was to commit an act of cheating. So far as petitioner no.2 is concerned, it is alleged that he stood as a witness in the document in which petitioner no.1 has taken upon himself the responsibility and liability.

Having heard learned counsel for the parties and on perusal of the records, this Court is of the opinion that so far as



petitioner no.1 is concerned, since he has accepted the transaction in writing in presence of the witnesses and has allegedly failed to abide by the same, he would not deserve grant of anticipatory bail. The prayer for grant of anticipatory bail on behalf of the petitioner no.1 Shekh Sabir Ali is thus refused. In case, he surrenders before the court below and prays for regular bail within four weeks from today, his prayer for regular bail shall be considered on its own merit without being prejudiced by the order of this Court.

So far as petitioner no.2 is concerned, there being no specific allegation against him and the only fact which has appeared against petitioner no.2 is that he stood as a witness in the written document executed by petitioner no.1, let the petitioner no.2 Shekh Mehraj Ali in the event of his arrest or surrender within a period of four weeks from today, be enlarged on bail on furnishing of bail bonds of Rs. 15,000/- (fifteen thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Sitamarhi in connection with Sitamarhi P.S. Case No.702 of 2017, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when



required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

(Rajeev Ranjan Prasad, J)

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