

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36799 of 2019

Arising Out of PS. Case No.-378 Year-2017 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. Nirmala Devi, Wife of Sri Ram Pandey @ Ram Pandey Resident of Village-
Newtapur, P.S.- Bodhgaya, District- Gaya.
 2. Birendra Pandey, Son of Sri Ram Pandey @ Ram Pandey Resident of
Village- Newtapur, P.S.- Bodhgaya, District- Gaya.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Sunil Kumar Sharma @ Sunil Kumar Sinha, Son of Late Kameshwar Singh
Resident of Mohalla- Hanuman Nagar, P.S.- Vishnupad, District- Gaya.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Indrajesh Kumar
For the Opposite Party/s : Mr.Khurshid Anwar

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 27-09-2019 Heard learned counsel for the petitioners and learned

counsel appearing on behalf of the State as well as learned

counsel appearing for Opposite Party No.2.

Petitioners apprehend their arrest in connection with

Gaya Complaint Case No.378 of 2017, for the offence

punishable under Sections 323, 420 and 504 of the Indian Penal

Code.

The allegation against the petitioners is that petitioner

No.1 in connivance with her grand son, Rahul Kumar, entered

into agreement for sale for a piece of land with the complainant



and received a sum of Rs.11,25,000/- from the complainant and the said land was sold in favour of third party.

Learned counsel appearing for the petitioners submits that petitioners have unnecessarily been dragged in this case with mala fide intention inasmuch as admittedly the agreement for sale was entered into by the complainant with one Rahul Kumar Paney and the entire amount of Rs.11,25,000/- has been paid by the complainant in favour of Rahul Kumar Pandey. Learned counsel further submits that in fact complainant is a broker and as per the terms of the agreement for sale, it is evident that on instruction of the complainant itself, land in question would have been sold in favour of third party and the present land has been sold in favour of third persons by the petitioner No.1. Learned counsel further submits that there is no specific allegation against petitioner No.2 and only allegation against him is that he abused the complainant.

On the other hand, Mr. Bipin Kumar, learned counsel for the complainant vehemently opposes the prayer for anticipatory bail and submits that a sum of Rs. 11, 25,000/- and odd amount has been taken by the grand son of the petitioner No.1 and in the agreement for sale, the signature of petitioner No.1 is there, who is one of the witnesses.



Learned counsel further submits that regular bail application of the co-accused, Rahul Kumar Pandey has been allowed, i.e., complainant may seek his remedy in a suit for specific performance vide order dated 05.09.2019 passed in Cr. Misc. No.55107 of 2019.

Having regard to the submissions made by the parties and taking into consideration the fact that this Court has granted bail to the main accused on the condition that the complainant can pursue his remedy in a suit for specific performance before an appropriate Court of civil jurisdiction, I am inclined to grant anticipatory bail to both these petitioners.

Accordingly, both the petitioners, above named, are directed to surrender before the learned Court below within a period of four weeks and in the event of surrender by them, they shall be released on anticipatory bail by the Court below upon furnishing bail bond of Rs.10,000/- (Ten thousand) each with two sureties of the like amount each to the satisfaction of learned C.J.M., Gaya, subject to the condition as mentioned under Section 438 (2) of Cr.P.C.

(Anil Kumar Sinha, J)

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