

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL APPEAL (SJ) No.3171 of 2019

Arising Out of PS. Case No.-488 Year-2019 Thana- PHULWARISHARIF District- Patna

1. Shabnam Perveen, Wife of Md. Taffazul Hussain
2. Md. Toquir Hussain @ Toquir @ Sarique, Son of Md. Taffazul Hussain
Both Resident of Flat No. 302, 3rd Floor, GSR Residency Apartment,
Ranipur Road, Alba Colony, P.S.- Phulwarisharif, District- Patna.

... .. Appellant/s

Versus

1. The State Of Bihar
2. Annu Kumari, Wife of Ranjit Rajak, Resident of Anandpuri Khagaul P.S.-
Khagaul. District-Patna

... .. Respondent/s

Appearance :

For the Appellant/s : Mr.Subodh Kumar Barnwal

For the Respondent/s : Mr.Sadanand Paswan

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

6 29-11-2019 Heard learned counsel for the appellants. Despite service of notice on opposite party no.2 and appearance of learned advocate for the informant, no one has appeared today to oppose this appeal.

Petitioner nos. 1 and 2 are mother and son respectively who have been made accused in Special Case No.236 of 2019 arising out of Phulwarisharif P.S. Case No.488 of 2019 registered for the offences punishable under Sections 420 and 406 of the Indian Penal Code and Section 3(i)(r)(S) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989.

From the allegations made in the FIR it appears that there had been an oral agreement between the husband of



appellant no.1 and the informant wherein the husband of the appellant no.1 had agreed to sell one flat which stands in the name of appellant no.1, to the informant for a consideration of Rs.32 lacs. It is the allegation of the opposite party no.2 that on account of purchase of the said flat she has remitted the consideration amount partly through RTGS and substantial amount of Rs.20,7000,00/- has been paid in cash. It is alleged that the appellants were receiving the money from the opposite party no.2.

Learned counsel for the appellants submits that there had been some business relationship between the husband of appellant no.1 and the informant and in course of that some dispute has arisen between the parties. Learned counsel further submits that the story as alleged with respect to the agreement to sell the flat in question is not correct inasmuch as it may be found from the records that no agreement had been signed between the parties for sale of the flat which stands in the name of the appellant no.1. Learned counsel has however offered for purpose of grant of anticipatory bail to pay the amount which were deposited in the account of the husband of appellant no.1 by opposite party no.2 through RTGS. The total amount deposited through RTGS is Rs.12,20,000/-. So far as amount allegedly given in cash is concerned, appellants submit that the considerations amount were in cash are wholly false and the same is not admitted.



Having considered the facts and circumstances of the case and the nature of the allegations which seem to be in the nature of a civil dispute, for purpose of grant of anticipatory bail this Court is willing to accept the submission of learned counsel for the appellants wherein the appellants shall pay a sum of Rs.12,20,000/- to the informant by way of a demand draft drawn in her favour payable on nationalized bank at Patna. Such payments shall however be without prejudice to the case of the appellants and will be subject to result of the final outcome of the criminal case. In ultimate analysis, if the case fails, the appellants would be entitled to recover the said amount from the opposite party no.2.

In the aforesaid view of the matter, the impugned order dated 28.06.2019 passed by the Additional Sessions Judge-XIII-cum-Special Judge (SC/ST) Act, Patna in Special Case No.236 of 2019 arising out of Phulwarisharif P.S. Case No.488 of 2019 is set aside.

Let in the event of their arrest or surrender within a period of four weeks from today, the appellants abovenamed be enlarged on bail on furnishing of bail bonds of Rs. 15,000/- (fifteen thousand) each with two sureties of the like amount each to the satisfaction of learned Special Judge (SC/ST) Act, Patna in connection with Special Case No.236 of 2019 arising out of



Phulwarisharif P.S. Case No.488 of 2019, 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.

and further condition that in terms of their own offer the appellants shall pay a sum of Rs.12,20,000/- to opposite party no.2 subject to the result of the criminal case.

This appeal stands disposed of accordingly.

(Rajeev Ranjan Prasad, J)

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