

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50969 of 2019

Arising Out of PS. Case No.-587 Year-2017 Thana- PURNEA SADAR District- Purnia

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1. Ravi Tiwari, Male, aged about 42 years, son of Sri Dudhnath Tiwari.
 2. Vidya Sri Devi, Female, aged about 35 years, wife of Ravi Tiwari.
Both are resident of C-6/6410, Vasant Kunj, P.S.- Vasant Kunj North,
District- New Delhi.

... .. Petitioners

Versus

The State of Bihar

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr. Bindhyachal Singh, Advocate Mr. Subodh Kumar Barnwal, Advocate
For the Opposite Party/s	:	Mr. Ramchandra Sahni, APP
For the Informant	:	Mr. Awadhesh Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SHIVAJI PANDEY
ORAL ORDER

3 28-08-2019 Heard learned counsel for the petitioners, learned
counsel for the State and learned counsel for the informant.

In this case, the petitioners are seeking anticipatory
bail in connection with Purnea Sadar P.S. Case No. 587 of 2017,
registered for the offence punishable under Sections 406, 420,
120B/34 of the Indian Penal Code.

As per the F.I.R., the informant and his sister
wanted to construct a Godown and petitioner no.1 has ensured
construction of the Godown subject to payment of amount
mentioned in the agreement. In total, Rs.64,94,600/- has been
credited to the account of the petitioner no.1. It has also been
alleged that though they started the construction of Godown but,



fled away in the mid of the work, time to time request was made for completion of the work, but every time the petitioner no.1 ignored the same, which compelled the informant to approach the Police. It has also been alleged that petitioner no.2 also actively participated in the commission of the crime.

Learned counsel for the petitioners submits that basically it is a civil dispute as the parties have entered into an agreement and according to the agreement the amount was paid and there is a Clause in the terms of the agreement that in the event of dispute, the resolution can be made through the Arbitrator or in the event of violation of the terms of the agreement, the informant will have to approach the Civil Court, so in no manner criminal case is maintainable.

Learned counsel for the informant-cum-complainant appeared *suo moto* in the present case and filed a counter affidavit, wherein he has elaborately given the facts concerning the matter that the petitioners have not only cheated the informant but, there are number of persons, who become victim of their notorious act and in the execution of the said activity, the petitioner no.2 has also actively participated. He further submits that the petitioners have conveniently suppressed the material fact regarding their past criminal history



as they are facing number of cases of different natures, but the same has not been disclosed in the present bail petition.

A supplementary affidavit has been filed by the petitioners, wherein there is no denial that they have no past criminal history, but the affidavit itself shows that in different cases the Police has submitted the charge-sheet, cognizance has been taken and notices have been served upon the petitioners.

This Court is not dealing with the matter on merit as in paragraph no.3 it has been stated that the petitioners have no criminal antecedent, but the fact is otherwise that the petitioners are facing large number of criminal cases of different natures, which they have not mentioned in this bail petition.

In such view of the matter, the bail of petitioner no.1 is rejected on the ground of suppression of material fact regarding criminal antecedent. However, if the petitioner no.1 surrenders before the Court below within three weeks from today and prays for regular bail, the Court below will consider the same and pass appropriate order without being influenced by the order of this Court.

So far the bail of petitioner no.2 is concerned, this Court is inclined to grant her anticipatory bail as she is a lady



and suffering from Tuberculosis of Bone (spinal Cord), as has been stated in the supplementary affidavit filed by the petitioners. Let the above-named petitioner no.2 be released on anticipatory bail in the event of her arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand Only) with two sureties of the like amount each to the satisfaction of the Chief Judicial Magistrate, Purnea / Successor Court, in connection with Purnea Sadar P.S. Case no. 587 of 2017, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure. Further condition is that whenever the police will call the petitioner no.2 for the purposes of investigation and interrogation, she will remain present for the investigation. In the event of being absent on two consecutive dates without reasonable explanation, the prosecution will be at liberty to make a prayer for cancellation of bail of petitioner no.2.

(Shivaji Pandey, J)

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