

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53911 of 2019

Arising Out of PS. Case No.-423 Year-2019 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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1. JANE ALAM Son of Late Ali Hasan Resident of Village - Khalispur, P.S.- Muffasil, Dist.- Siwan at Present J-2 Batla House Jamiya Nagar New Delhi.
 2. Raitun Nisa @ Sultana Son of Jane Alam Resident of Village - Khalispur, P.S.- Muffasil, Dist.- Siwan at Present J-2 Batla House Jamiya Nagar New Delhi.
 3. Faiz Alam Son of Shabbir Resident of Village - Khalispur, P.S.- Muffasil, Dist.- Siwan at Present J-2 Batla House Jamiya Nagar New Delhi.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Mustaque Ahmad Son of Anwarul Haque Resident of Village - Dhamapakr, P.S.- Manjhagarh, Dist.- Siwan.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Abdul Mannan Khan Mr. Binay Kumar
For the Opposite Party/s	:	Mr. Chandra Bhushan Prasad
For O.P. No. 2	:	Mr. Mukesh Kumar Singh

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

3 05-09-2019 Heard learned Counsel for the petitioners, learned Counsel appearing on behalf of the Opposite Party No. 2 and learned Additional Public Prosecutor for the State.

This application, for grant of anticipatory bail, arises out of Complaint Case No. 423 of 2019, in which cognizance has been taken for the offences punishable under Sections 420/406/506/34 of the Indian Penal Code.

The allegation against the petitioners is that the petitioner nos. 1 and 2 arrived, on 08.12.2011, at the house of



the complainant and offered him to purchase a piece of land, measuring 150 yards, in NOIDA, for a total consideration amount of Rs. 7,00,000/-. On the basis of the recommendation of the petitioner no. 1 and the land owner, Takeram, the complainant, immediately, handed over a sum of Rs. 4,00,000/- to the said land owner and further at the time of registration of the sale deed, on 04.03.2011, the balance amount of Rs. 3,00,000/- was given to the said land owner.

Learned Counsel for the petitioners submits that the petitioners have falsely been implicated in this case merely on the basis that the petitioner no. 3 is a witness to the sale deed and the petitioner no. 1 is the permanent residence of Siwan and at present, he is residing in Delhi and petitioner no. 2 is the wife of petitioner no. 1. He further submits that the petitioners have no role to play in this case inasmuch as both, the purchaser and the land owner, entered into registration of a sale deed for a piece of land at NOIDA and after sometimes, i.e. after a lapse of eight years, the present complaint has been lodged by the complainant on the basis of the allegation that it has come to light that the land, in question, had already been acquired by the Government. He, thus, submits that upon perusal of the First Information Report, no criminal offence is made out against the



petitioners and at best, the same gives rise to a civil dispute.

On the other hand, learned Counsel appearing on behalf of the Opposite Party No. 2-complainant vehemently opposes the prayer of anticipatory bail and submits that the petitioners, in connivance with the land owner, sold a piece of land in favour of the complainant, which they were very well knowing that the same was acquired earlier by the Government for construction of Express Way. He, thus, submits that the petitioners have committed criminal breach of trust and cheating. He further submits that entire amount was given by the complainant to the petitioner no. 1.

After having heard learned Counsel for the parties and taking into consideration the fact that sale deed has already been executed between the land owner and the complainant and the petitioner no. 3 is merely a witness to the sale deed and both, petitioner nos. 1 and 2, are residence of the same place as that of the complainant, I am inclined to grant the petitioners privilege of anticipatory bail. Accordingly, this application is allowed.

Let the petitioners, above named, in the event of their arrest or surrender before the Court below within four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the



satisfaction of learned Chief Judicial Magistrate, Gopalganj, in connection with Complaint Case No. 423 of 2019, subject to the condition laid down under Section 438 (2) of the Code of Criminal Procedure.

Prabhakar Anand/-

(Anil Kumar Sinha, J.)

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