

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.29527 of 2020

Arising Out of PS. Case No.-1305 Year-2015 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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1. MOHD KALAM MIAN @ KALAM MIAN S/o Abdul Majid R/o Village- Basant Tola, P.S.- Bettiah (Town), District- West Champaran.
 2. Md. Mirad Ali @ Md. Murad Ali S/o Mohd Kalam Mian @ Kalam Mian R/o Village- Basant Tola, P.S.- Bettiah (Town), District- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Nadeem Mian S/o Sheikh Md. Ashik R/o Village- Jamadartola, P.S.- Bettiah (Town), District- West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Bimlesh Kumar Pandey
For the Opposite Party/s	:	Mr.Abhay Kumar No. 1
For O.P. No. 2	:	Mr. Aditya Nath Jha

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 16-12-2020 Heard learned Counsel for the petitioners, learned Counsel for the complainant-Opposite Party No. 2 and learned Additional Public Prosecutor for the State, through Video Conferencing.

This application, for grant of anticipatory bail, arises out of Complaint Case No. 1305C of 2015, in which cognizance has been taken for the offences punishable under Sections 341/323/420/406/504/34 of the Indian Penal Code.

The case, as per the complaint petition, is that the petitioner no. 1 had executed an agreement for sale of 2 kathas 8 dhurs of land of Khata No. 226, Khesra No. 1072, in favour of



the complainant and a sum of Rs. 4,00,000/- was paid by the complainant to petitioner no. 1 as advance and after that Rs. 70,000/- and Rs. 65,000/- were paid by the complainant to the petitioners. It has been alleged that despite having received considerable amount from the complainant, the petitioners did not registered the land in question in favour of the complainant and when the complainant approached the petitioners for registration of the land in his favour, the petitioners abused and assaulted him. It has further been alleged that the petitioners, with intention to deceive and cheat the complainant, has misappropriate Rs. 5,30,000/- paid by the complainant to the petitioners.

Learned Counsel for the petitioners submits that the petitioners have not committed any offence in the manner alleged and if, at all, there was an agreement for sale of the land in question, the appropriate remedy for the complainant would have to file a suit for specific performance before a civil court of competent jurisdiction. He further submits that altogether Rs. 2,09,000/- was received by petitioner no. 1 from the complainant, which has already been returned to him.

On the other hand, learned Counsel for the complainant vehemently opposes the prayer for anticipatory bail



and submits that from perusal of the agreement for sale, it would be evident that a sum of Rs. 4,00,000/- has been paid to petitioner no. 1 and the agreement has been signed by both the petitioners. He further submits that there is no proof of return of any amount by the petitioners in favour of the complainant. He also submits that from the very inception, the intention of the petitioners was to cheat and deceive the complainant and misappropriated the amount given by the complainant to the petitioners with that intention.

Learned Counsel for the petitioners, at this stage, submits that for the purpose of grant of anticipatory bail, the petitioners are ready to deposit a sum of Rs. 3,00,000/- in the learned Court below, subject to the final outcome of this case, and the amount, so deposited by the petitioners, may be kept in interest generating instrument/fund.

The offer, so made on behalf of the petitioners, has been accepted by learned Counsel for the complainant.

After having heard learned Counsel for the parties concerned and taking into consideration the materials on record and the offer made on behalf of the petitioners, I am inclined to grant the petitioners privilege of anticipatory bail.

This application is, accordingly, allowed.



Let the petitioners, above named, in the event of their arrest or surrender before the Court below within twelve weeks from today, be released on bail on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, West Champaran, at Bettiah, in connection with Complaint Case No. 1305C of 2015, subject to the conditions (i) laid down under Section 438 (2) of the Code of Criminal Procedure, and (ii) a total sum of Rs. 3,00,000/- shall be deposited by the petitioners before the learned Court below at the time of furnishing their bail bonds and the learned Court below shall deposit the said amount in interest generating instrument with any nationalized bank.

It is made clear that the amount so deposited, along with interest thereon, shall be subject to the final outcome of the complaint case.

It is further made clear that at the time of furnishing bail bonds, all the parties shall follow the guidelines regarding social distancing.

(Anil Kumar Sinha, J.)

Prabhakar Anand/-

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