

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.42452 of 2019

Arising Out of PS. Case No.-549 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Sanjay Kumar Son of Late Rajendra Mahto Resident of Mohalla-Ranipur Nimmat Patna City, P.S.-Mehndiganj, Post-Jhauganj, Patna City, District-Patna.
 2. Satish Kumar Son of Late Rajendra Mahto Resident of Mohalla-Ranipur Nimmat Patna City, P.S.-Mehndiganj, Post-Jhauganj, Patna City, District-Patna.
 3. Satendra Kumar @ Satyender kumar Son of Late Rajendra Mahto Resident of Mohalla-Ranipur Nimmat Patna City, P.S.-Mehndiganj, Post-Jhauganj, Patna City, District-Patna.

... .. Petitioners

Versus

1. The State of Bihar
2. Sanjeev Kumar Son of Late Ramdev Singh Resident of Mohalla-Nakhas Pind, P.S.-Malsalami, District-Patna.

... .. Opposite Parties

Appearance :

For the Petitioners : Mr.Arvind Kumar Mouar, Adv.
For the Opposite Parties : Mr.Binod Kumar, APP

CORAM: HONOURABLE MR. JUSTICE PARTHA SARTHY
ORAL ORDER

7 18-02-2020 Heard learned counsel for the petitioners, learned
counsel for the informant and learned APP for the State.

The instant application for anticipatory bail has been filed by the petitioners apprehending their arrest in connection with Complaint Case No. 549 of 2017 wherein cognizance has been taken for the offence punishable under sections 406, 420, 341, 323, 379, 427, 504 and 34 of the Indian Penal Code.

As per allegation made in the complaint, agreement for sale was executed between the complainant and the three



petitioners on 01.07.2014 for sale of a piece of land for total consideration amount of Rs. 39,50,000/-. It is stated that out of total amount, Rs. 10,00,000/- was paid by the complainant to these petitioners and subsequently on 28.12.2014 balance amount of Rs. 29,50,000/- was paid to petitioner no. 1. However, inspite of giving total amount, they have not executed the sale deed of the aforesaid land and, in fact, on 26.09.2016, the said piece of land for which the agreement of sale had been entered into, was sold to a third person.

It is submitted by learned counsel for the petitioners that from the facts stated in the complaint, it would be evident that the dispute is primarily civil in nature. It is further submitted that so far as the advance of Rs. 10,00,000/- pursuant to the agreement of sale is concerned, the same was returned on 20.03.2015, which would be evident from the endorsement made on the back of deed of agreement for sale, which has been brought on record. It is further submitted that so far as the payment of balance sum of Rs. 29,00,000/- is concerned, the complainant relies on the endorsement made on the back of the deed of agreement for sale, brought on record as Annexure-7 to the petition and from perusal of the same, it would transpire that none of the petitioners are signatories to the said endorsement.



It is, thus, submitted that the advance sum of Rs. 10,00,000/- was returned to the complainant and no other amount had been paid by the complainant and instead the agreement for sale had been revoked. It is further case of the petitioners that after taking cognizance in the instant case and after issuance of summon and having come to know about the case lodged by the complainant, the petitioner no. 1 filed a case which was registered as Complaint Case no. 611 of 2018 before the Court of learned Additional Chief Judicial Magistrate 1st, Patna City against the complainant and others and on being referred to the Officer in Charge, P.S. Mehandiganj Patna City under Section 156(3) Cr.P.C., Mehandiganj P.S. Case No. 80 of 2018 was registered, which is pending for investigation. It is finally submitted that besides petitioner no. 3 being accused in a case under section 498A of the IPC, there is no other case against the petitioners.

It is submitted by learned counsel for the complainant that from the allegations levelled in the complaint, it is a clear case of cheating and criminal breach of trust on behalf of the petitioners and for this reason by order dated 18.08.2017 cognizance had been taken against the accused persons including the petitioners herein. It is submitted that so far as the



payment of the sum of Rs. 29,00,000/- and the defence of the petitioners that none of the petitioners are signatories to the said endorsement is concerned, endorsement in connection with the return of the sum of Rs. 10,00,000/- to the complainant would show that the complainant has also not put his signature there. It is further submitted that out of the four accused persons in the complaint, the accused, who is not the petitioner herein, namely, Ajit Kumar has been granted regular bail and, thus, it is not a fit case for grant of anticipatory bail to the petitioners.

Having heard learned counsel for the parties and taking into consideration the facts and circumstances of the case, from perusal of the documents enclosed i.e. agreement for sale between the parties and the endorsement with respect to payment of advance money and return thereof between the parties, the same requires to be adjudicated in the court of competent jurisdiction. On query by the Court, it was submitted by the learned counsel for the complainant that no suit has yet been filed. Considering the nature of allegations, this Court is inclined to grant anticipatory bail to the petitioners and they are directed to surrender in the court below within a period of six weeks from today and in the event of their arrest or surrender, they will be enlarged 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 Additional Chief Judicial Magistrate-II, Patna City in connection with Complaint Case No. 549 of 2017, subject to the condition as laid down under section 438(2) of the Cr.P.C.

(Partha Sarthy, J)

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