

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.80282 of 2019

In
CRIMINAL MISCELLANEOUS No.38931 of 2019

Arising Out of PS. Case No.-547 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Mosmat Gayatri Devi @ Gayatri Devi W/o Late Bhagwan Ojha Resident of Village - Shahpur, P.S.- Shahpur, Distt.- Patna, Bihar.
 2. Rajendra Kumar Ojha Son of Late Bhagwan Ojha Resident of Village - Shahpur, P.S.- Shahpur, Distt.- Patna, Bihar.
 3. Sujeet Kumar Ojha Son of Late Bhagwan Ojha Resident of Village - Shahpur, P.S.- Shahpur, Distt.- Patna, Bihar.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Kundan Kumar Son of Alakh Niranjana Singh Resident of Village - Shahpur, P.S.- Shahpur, Distt.- Patna, Bihar.

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr.Surendra Kumar Singh, Advocate
For the State	:	Mr.Akbar Ali, APP
For the Complainant-O.P.No.2:		Mr. Prasoon Sinha, Advocate

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 04-03-2020 Heard Mr. Surendra Kumar Singh, learned counsel
for the petitioners and Mr. Prasoon Sinha, learned counsel for
the complainant-opposite party no. 2.

The present application has been filed for
modification of order dated 24.07.2019 passed in Cr. Misc.
No. 38931 of 2019, whereby the petitioners' provisional
anticipatory bail was extended till 24th of September, 2019
which was granted to the petitioners vide order
dated 02.01.2019 passed in Cr. Misc. No. 52388 of 2018 in



Complaint Case No. 547(c) of 2017 wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 406, 420 and 120B of the Indian Penal Code.

The prosecution case is that on 16.02.2016 the petitioners entered into an agreement for sale with regard to a piece of land appertaining to Thana No. 28, Tauzi No. 2608, Ward No. 5, Holding No. 258 measuring an area of 2200 sq. feet situated within Danapur Municipal Area and consequently, Rs.6,00,000/- as advance consideration amount was paid to the petitioners. Subsequently, the complainant came to know that the petitioners neither had title nor possession over the land in question.

Though the petitioners claimed the land in question as their ancestral land. However, considering the fact that the petitioners agreed to return Rs.6,00,000/-, out of which, they had returned Rs.90,000/- through bank transaction and they were ready to return the remaining amount of Rs.5,10,000/- within a period of six weeks, they were granted provisional anticipatory bail for six months vide order dated 02.01.2019 passed in Cr. Misc. No. 52388 of 2018. The provisional anticipatory bail was to be confirmed by the learned



Court below on submission of proof with regard to return of the entire remaining amount to the tune of Rs.5,10,000/- to the complainant, out of which, the petitioners were to submit a bank draft of Rs.1,50,000/- at the time of furnishing bail bonds. Subsequently, petitioners preferred Cr. Misc. No. 38931 of 2019 for modification of order dated 02.01.2019 passed in Cr. Misc. No. 52388 of 2018, whereby the period for provisional anticipatory bail was sought to be extended and vide order dated 24.07.2019 passed in Cr. Misc. No. 38931 of 2019 the period of provisional bail was extended till 24th of September, 2019 and the petitioners were again directed to submit a demand draft of Rs.3,60,000/- in three equal installments by 20th of September, 2019, out of which, demand draft of first installment was supposed to be submitted by 15th of August, 2019 before the learned Court below. It appears from the record that only Rs.1,20,000/- has been paid by the petitioners till 14th of August, 2019. Thereafter, the present modification application has been filed for modification of order dated 24.07.2019 passed in Cr. Misc. No. 38931 of 2019.

The order dated 26.02.2020 reflects that the petitioners handed over a demand draft of Rs.2,40,000/- and two



cheques each of Rs.5,000/- to learned counsel for the complainant-opposite party no. 2, Mr. Prasoon Sinha. Today, the petitioners have brought a demand draft of Rs.50,000/- which has been handed over to the learned counsel for the complainant-opposite party no. 2. Hence, altogether till now, the petitioners have paid Rs.5,70,000/- to the complainant-opposite party no. 2.

It is submitted that the bail bonds of the petitioners have not been cancelled.

It is expected from Mr. Prasoon Sinha, learned counsel for the complainant-opposite party no. 2 to make endorsement of the receiving of demand draft of Rs.50,000/-.

In the circumstances, learned counsel for the complainant-opposite party no. 2 has no objection in confirming the provisional anticipatory bail of the petitioners.

Accordingly, the order dated 02.01.2019 passed in Cr. Misc. No. 52388 of 2018 and order dated 24.07.2019 passed in Cr. Misc. No. 38931 of 2019 are modified to the extent that the provisional anticipatory bail granted to the petitioners in connection with Complaint Case No. 547(c) of 2017, pending in the Court of learned Judicial Magistrate, Ist Class, Danapur, Patna is, hereby, confirmed.



Accordingly, the present modification application is
disposed of.

(Dinesh Kumar Singh, J)

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