

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84977 of 2019

Arising Out of PS. Case No.-412 Year-2019 Thana- SHASTRINAGAR District- Patna

SHASHI KALA THAKUR Wife of Sri Arvind Kumar Thakur Resident of
Siddhi Vinayak Apartment, P.S.- Bariyatu, District- Ranchi (Jharkhand).

... .. Petitioner/s

Versus

1.The State of Bihar
2. Krishna Mohan Tiwari, S/o Sri Kamlakar Tiwari, resident of village-
740/95/123, New Sohabatibad, P.S.-George, District-Allahabad, Uttar Pradesh
At present - Additional District and Sessions Judge, East Champaran,
Motihari.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Ajay Kumar Thakur, Adv. Mr.Nilesh Kumar, Adv.
For the State	:	Mrs.Rina Sinha, APP
For the Informant	:	Dr. Anshuman, Adv.

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

8 30-09-2020 Heard Mr. Ajay Kumar Thakur, learned counsel for
the petitioner, Mrs. Rina Sinha, learned A.P.P. as well as Dr.
Anshuman, learned counsel for the O.P. No.2 through Video
Conferencing.

The petitioner apprehends her arrest in Shastrinagar
P.S. Case No.412 of 2019 registered under Sections 406 and 420
of the Indian Penal Code.

The informant-O.P. No.2 alleged in his written
application that proprietor of M/S Arjuna Homes Private
Limited namely, Arvind Kumar Thakur and his wife, Shashi
Kala Thakur contacted him at Sasaram for selling the flat



situated in Rameshwaram Apartment, Patel Nagar and they assured to hand over the flat after completion of the flat till September, 2014. They also assured to provide loan from L.I.C.H.F.L. branch through Manoj Jee. It is further alleged that Shashi Kala Thakur(the petitioner) is in-charge of the work at Patna. The informant believed the statement of the petitioner and others and gave Rs.1 lakh after taking personal loan from S.B.I., Sasaram Branch. It is further alleged that loan of Rs.31,35,000/- was sanctioned and on different dates, the total amount of Rs.28,50,000/- was transferred to the account of M/S Arjuna Homes Private Limited at Punjab National Bank but the petitioner and her husband did not hand over the flat. Now the company has been closed. Rs.35,120/- is being deducted every month from the salary of the petitioner towards payment of loan.

The learned counsel for the petitioner submits that genesis of the F.I.R. is agreement annexed with the F.I.R. The agreement with M/S Arjuna Homes Private Limited through its Managing Director, Arvind Kumar, the husband of the petitioner and Smt. Nand Kishori Sinha, the owner of the land. Sri Krishna Mohan Tiwari, the informant is one of the party to the agreement. It is submitted that from perusal of the entire agreement, not a single



word is whispered against the petitioner. Petitioner is of course a partner of M/s Arjuna Homes Private Limited but the petitioner did not receive even a single farthing from the informant and his wife. The wife of the informant has not filed any case for cheating her. Only the informant disclosed about the fact that he booked the flat in M/s Arjuna Homes Private Limited for purchasing a flat from the husband of the petitioner and the owner of the land but in the counter-affidavit, the informant-O.P. No.2 also disclosed that the wife of O.P. No.2 also booked a flat in M/s Arjuna Homes Private Limited. It is further submitted that husband of the petitioner has already been granted provisional bail by order dated 18.12.2019 passed in Cr. Misc. No.84235 of 2019 with condition that the provisional bail of the husband of the petitioner will be confirmed by the learned court below if the informant appears before the learned court below accepts the factum of issue being reconciled. It is further submitted that husband of the petitioner has already deposited Bank Draft of about Rs.22 lacs in the court below and the petitioner deserves anticipatory bail.

Learned A.P.P. and Dr. Anshuman, learned counsel for the informant vehemently opposed the prayer for anticipatory bail of the petitioner and submits that from perusal of the F.I.R.



itself, it would appear that the informant made specific allegation against the petitioner also that she is one of the active partners of M/s Arjuna Homes Private Limited. The petitioner and her husband cheated Rs.29,50,000/- from the informant and his wife. Now the company has already been closed. The informant has filed much more in the head of interest but till date the flat has not been handed over to the informant. It is further submitted that informant has already filed a petition for cancellation of bail of the husband of the petitioner because the husband of the petitioner never presented himself in the court for reconciliation. The provisional bail was granted only for reconciliation of the matter. There was no terms and conditions to return only Rs.29,50,000/- to the informant as the husband of the petitioner has cheated the informant and his wife.

Perused the records. From perusal of the agreement annexed with the F.I.R., it appears that agreement was executed among M/s Arjuna Homes Private Limited through its Managing Director, Arvind Kumar, Smt. Nand Kishori Sinha, the owner of the land and Sri Krishna Mohan Tiwari, the informant of the case. It appears that in the entire agreement, the name of the petitioner has not been mentioned anywhere either as recipient of any money or there is no allegation that the



petitioner being the wife of Arvind Kumar Thakur, one of the Managing Director of M/s Arjuna Homes Private Limited played any role or persuaded the informant and his wife to purchase any flat. Of course, the informant in the F.I.R. made allegation that the petitioner and her husband persuaded the informant to purchase the flat and received Rs.29,50,000/- for selling the flat. The entire amount was paid in the account of M/s Arjuna Homes Private Limited. The informant in the F.I.R. alleged that Arvind Kumar Thakur and Shashi Kala Thakur are the owner of M/s Arjuna Homes Private Limited but the informant did not disclose this fact in the agreement between the informant and M/s Arjuna Homes Private Limited. The husband of the petitioner has already granted provisional bail on the condition that he would reconcile the matter with the informant. Petitioner is a lady. Thus, I find that petitioner deserves anticipatory bail. Accordingly, the same is allowed.

Taking into consideration the facts aforesaid, let the petitioner, above named, in the event of her arrest or surrender within a period of 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 the learned Additional Chief Judicial Magistrate-IV, Patna in connection with



Shastrinagar P.S. Case No.412 of 2019, subject to the conditions
as laid down under Section 438(2) of the Code of Criminal
Procedure.

(Prabhat Kumar Jha, J)

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