

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.23708 of 2020

Arising Out of PS. Case No.-445 Year-2019 Thana- MADHEPURA COMPALINT CASE
District- Madhepura

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1. MD ISLAM @ ISLAM Son of Late Husen Miya @ Late Md. Hussain Miya @ Late Md. Hussain Maien. R/o Village- Jirwa Tola, Nisiharpur, P.S.- Shankarpur, District- Madhepura.
 2. Sabnam Khatoon Daughter of Md. Rustam @ Rustam Alam R/o Village- Jirwa Tola, Nisiharpur, P.S.- Shankarpur, District- Madhepura.

... .. Petitioners

Versus

1. The State of Bihar
2. Md. Ataullah S/o Late Md. Manir Khan @ Late Md. Mansin Khan R/o Village- Hathyondha (Htiyondha), P.S.- Bihariganj, District- Madhepura.

... .. Opposite Party

Appearance :

For the Petitioner/s	:	Mr.Pawan Kumar, Advocate
For the Opposite Party/s	:	Mr. Ganesh Prasad Singh, APP
For the Informant	:	Mr. Nafisuzzoha, Advocate.

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

5 15-03-2021 Heard learned Counsel for the petitioners and the learned Counsel for the informant as also the learned APP for State.

This Court would expect that the petitioner's Counsel would honour his undertaking in the instant proceedings regarding supply of requisite court fee etc. within two weeks from the date he is called upon to do so by the office.

Petitioners apprehend arrest in Complaint Case No. 445 of 2019 registered under Sections 323 and 420/34 of the IPC.

The allegation in the complaint petition against the petitioners is that they have purchased the land but have not paid full proceeds as agreed between the parties and are enjoining unlawful possession of the land in question.

Learned Counsel for the petitioners submits that the offence alleged is predominantly civil in nature, however, without prejudice



to their right at the trial they are willing to deposit the amount equal to 25% of Rs. 7,88,000/- at the time of taking benefit of anticipatory bail in the event they are granted bail in these proceeding.

Learned Counsel for the informant submits that the petitioners are in unlawful possession and they have refused to make payment of the balance money to the complainant.

Learned APP has opposed the prayer for bail.

Having considered the rival submissions and in view of the submission advanced by the learned Counsel for the petitioners the prayer for grant of anticipatory bail to the petitioners is allowed subject to payment of 25% of Rs. 7,88,000/- to the complainant within a period of four weeks.

Accordingly, let the petitioners above named, in the event of arrest or surrender before the court below within four weeks from the date of payment of money, 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 ACJM Ist, Madhepura in Complaint Case No. 445 of 2019 subject to all conditions as laid down in Section 438(2) of the Criminal Procedure Code as also the following conditions:-

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the Court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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