

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.38096 of 2020

Arising Out of PS. Case No.-105 Year-2020 Thana- CHANPATIA District- West Champaran

VINOD KUMAR KUSHWAHA @ VINOD MAHTO @ VINOD PRASAD
KUSHWAHA @ BINOD PRASAD KUSHWAHA S/o Late Baidyanath
Mahto R/o Village - Parao Tola, P.S. - Lauriya, District - West Champaran

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Anant Kumar Mishra, Mr. Bimlesh Kumar Pandey, Advocates.
For the Informant	:	Mr. Sunil Kumar Pandey, Adv.
For the State	:	Ms. Rita Verma, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

6 22-06-2021 Heard Mr. Anant Kumar Mishra, learned counsel for the petitioner, Mr. Sunil Kumar Pandey, learned counsel appearing for the informant and Ms. Rita Verma, Additional Public Prosecutor for the State through video conferencing.

2. Petitioner seeks regular bail in connection with Chanpatiya PS Case No. 105/2020 registered for the offence punishable under Sections 420, 406, 504, 506/34 of the IPC.

3. The allegation, as per First Information Report, is that the petitioner executed an agreement for sale with the wife of informant for a piece of land and the details of which is mentioned in the agreement for a total consideration amount of Rs. 23,45,000/- out of which Rs. 11 Lacs has been transferred



into the bank account of petitioner and the rest amount has been paid to the petitioner as well as to one broker, namely, Harendra Ram. It has further been alleged that despite having been paid aforesaid amount, the petitioner, with an intention to misappropriate the money of the informant, has refused to execute the sale deed.

4. Learned counsel for the petitioner submits that the petitioner has not committed any offence in the manner alleged and referring to Annexure-2, learned counsel submits that there was an agreement between Harendra Ram and the petitioner and from perusal of the same, it would be evident that Harendra Ram has received Rs. 3,18,000/- from the petitioner and further submission of the learned counsel for the petitioner is that Rs. 11 Lacs which was deposited in the bank account of the petitioner, was handed over to Harendra Ram by the petitioner.

5. On the other hand, learned counsel for the informant referring to Annexure-B and C, submits that there was an agreement for sale between petitioner and wife of the informant on a stamp paper in which both the parties have put their signatures and from perusal of this agreement, it is crystal clear that Rs. 11 Lacs was transferred in the bank account of petitioner (Annexure-A, which is bank statement of the



petitioner). Learned counsel next submits that Annexure-2 is a concocted document which was not executed by the petitioner or his wife, it is a unilateral piece of paper prepared by the petitioner and one Harendra Ram in order to misappropriate the amount of the informant.

6. Learned counsel for the informant next submits that from perusal of para-8 and 19 of the case diary, it would be evident that during course of investigation, it has come to light that the land for which, the petitioner has entered into an agreement for sale with the wife of the informant, does not belong to him and as such, it is evident that from the very beginning the intention of the petitioner was to deceive and cheat the informant and his wife.

7. However, learned counsel for the petitioner claims parity and submits that co-accused, Harendra Ram has been granted bail by a co-ordinate Bench of this Court. Upon this, learned counsel for the informant submits that the case of Harendra Ram is on different footing inasmuch as from perusal of the agreements at Annexure-B and C of the counter affidavit, it would be evident that it was the petitioner who claimed to be the owner of the land in question and received amount of Rs. 11 Lacs in his bank account and subsequently, it came to light that



the petitioner was not the owner of the land in question and in the calculative manner in conspiracy with the co-accused, he cheated and misappropriated the amount of the informant.

8. As such, submission is that the parity claimed by the petitioner is not sustainable in the eye of law.

9. Having regard to the submissions made by the parties and taking into consideration the material on record and the fact that there is a bilateral agreement duly signed by the petitioner and the wife of the informant and further from perusal of Annexure-A which is bank statement, it is evidently clear that Rs. 11 Lacs was received in the bank account of the petitioner and during course of investigation, it has come to light that petitioner is not the owner of the land in question, accordingly, this Court finds, *prima facie*, material against petitioner. As such, I am not inclined to grant regular bail to the petitioner at this stage. The prayer for bail of the petitioner, is hereby, rejected.

10. However, petitioner, if so advised, may renew his prayer for bail after one year from today, if the trial does not record any progress.

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(Anil Kumar Sinha, J)

