

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74195 of 2019

Arising Out of PS. Case No.-105 Year-2018 Thana- KANHauli District- Sitamarhi

1. BINOD KUMAR MAHTO @ BINOD KUMAR, Son of Late Laxmi Mahto, Resident of Village - Basahia, P.S.- Kanhauli, Dist.- Sitamarhi
2. Surendra Kumar Mahto @ Surendra Kumar, Son of Late Laxmi Mahto, Resident of Village - Basahia, P.S.- Kanhauli, Dist.- Sitamarhi
3. Vinay Kumar Mahto @ Vinay Kumar, Son of Late Laxmi Mahto, Resident of Village - Basahia, P.S.- Kanhauli, Dist.- Sitamarhi ... Petitioners

Versus

The State of Bihar

... Opposite Party

Appearance :

For the Petitioners : Mr. Daya Shankar Prasad Sinha, Adv.

For the Opposite Party : Mr. Ashok Kumar Singh, APP

CORAM: HONOURABLE MR. JUSTICE RAJENDRA KUMAR MISHRA

ORAL ORDER

5 04-03-2021 Heard learned counsel for the petitioners and learned Additional Public Prosecutor for the state.

The petitioners seek pre-arrest bail in connection with Kanhauli P.S. Case No. 105 of 2018, registered under Sections 406 and 420/34 of the Indian Penal Code.

The accusation is that petitioner no. 1, Binod Kumar Mahto, petitioner no. 2, Surendra Kumar Mahto, and petitioner no. 3, Vinay Kumar Mahto, approached to informant, Ram Ekbal Sah, to sell the land of one bigha and ten katha and in negotiation the rate of land was fixed Rs.50,000/- per katha. Accordingly, on 20.10.2014, Rs.10,50, 000/- was given by the informant to the petitioners in presence of mediator, Jagdish Sharma, and remaining amount of rupees four lakhs fifty



thousand were paid through two cheques, dated 24.11.2014 and 02.12.2014, related to the account of Neha Kumari, daughter-in-law of the informant, which was credited in the account of Manju Devi, wife of petitioner no. 1, Binod Kumar Mahto. In spite of receiving the consideration amount, petitioners did not pay any heed to execute the sale deed and when informant approached the petitioners, informant was abused.

Submission is that, in fact, the Sub-Agency of motorcycle is in the name of petitioner no. 1, Binod Kumar Mahto, in which connection the loan was taken, but, later on the amount was returned, but, with ulterior motive the informant lodged the present case, implicating petitioner no. 2, Surendra Kumar Mahto, and petitioner no. 3, Vinay Kumar Mahto, who are also own brothers of petitioner no. 1, Binod Kumar Mahto.

Learned Additional Public Prosecutor, appearing for the State, opposed the prayer for bail submitting that it has come in the case diary that petitioner no. 1, Binod Kumar Mahto, has taken two cheques, but, there is no description about returning the money.

Having regard to the facts and circumstances of the case, let petitioner no. 2, Surendra Kumar Mahto, and petitioner no. 3, Vinay Kumar Mahto, in the event of surrender/arrest,



within a period of four weeks from today, in connection with Kanhauli P.S. Case No. 105 of 2018 shall be released on bail on furnishing bail bonds of Rs.10,000/- (rupees ten thousand) each with two sureties of the like amount each to the satisfaction of the Sub-Judge, I, Sitamarhi, or the successor Court subject to the conditions as laid down under Section 438(2) Criminal Procedure Code.

So far the prayer of pre-arrest bail of petitioner no. 1, Binod Kumar Mahto, is concerned, it is **rejected**. He is directed to surrender before the Court below and seek regular bail, which will be considered on it's own merit, without being prejudiced of this order.

(Rajendra Kumar Mishra, J)

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