

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.16640 of 2022

Arising Out of PS. Case No.-277 Year-2021 Thana- KHAJEKALA District- Patna

1. SEEMA MURARKA W/o Prakash Murarka Resident of Mohalla- Ghagha Gali, P.S.- Khajekala, District- Patna.
2. PRATIK MURARKA Son of Prakash Murarka Resident of Mohalla- Ghagha Gali, P.S.- Khajekala, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Krishna Chandra, Advocate
For the Opposite Party/s	:	Mr. Mithlesh Kumar Khare, A.P.P.
For the Informant	:	Mr. Prakash Tiwari, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 22-09-2022 Heard learned counsel for the petitioners, learned counsel for the informant and learned A.P.P. for the State.

Let the defect(s), if any, be removed within a period of four weeks.

The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 420 and 379 of the Indian Penal Code.

Learned counsel for the petitioners submits that petitioners are persons with clean antecedent and petitioner no. 1 is a woman.

The informant (Nilu Sharda) alleges that petitioners took ornaments along with Rs.10,00,000/- cash in lieu of conducting a business and sharing the profit. It is further alleged that thereafter Rs.3,50,000/- was returned to the informant by the



petitioner no. 1 and when the informant asked for the remaining amount and other articles as detailed in the FIR, the petitioner no. 1 refused. It is further alleged that petitioners also took ornaments as detailed in the FIR from the informant's sister and one Shilpa Tapadiya and from the informant's Bhabhi as detailed in the FIR and thus siphoned off the ornaments and cash which was given to her for purposes of doing business on the terms of profit sharing.

Learned counsel for the petitioners submits that petitioners have been falsely implicated in the present case. It is further submitted that though there is no documentary evidence on record with respect to the transaction in question but the amount was given by the informant to the petitioners for carrying out the business of boutique of which petitioner no. 1 was running but the business failed, as such, the money could not be returned. It is next submitted that it was a purely business transaction and if the informant is aggrieved then she has remedy available elsewhere. It is also submitted that informant can file a money suit for recovery of money but a criminal case is unwarranted and is abuse of the process of the Court for the reason that the informant intends to coerce the petitioners into submission by putting them under fear of arrest for recovery of amount which the informant claims to have given to the petitioners. It is further submitted that petitioner no. 2 is the son of petitioner no. 1 and is taking training of pilot at



Pune presently and he has been implicated merely because he is son of petitioner no. 1.

Learned A.P.P. for the State and learned counsel for the informant opposed the prayer for anticipatory bail of the petitioners but are not able to meet the submission of the learned counsel for the petitioners that there is no documentary evidence on record with respect to the transaction as alleged and also the fact that whatever money was given that was for the purposes of investing in the business on the basis of sharing profit.

Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory 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 learned court below where the case is pending/successor court in connection with Khajekalan P.S. Case No. 277 of 20221, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

Kundan/-

U		T	
---	--	---	--

