

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.65129 of 2021

Arising Out of PS. Case No.-87 Year-2021 Thana- SASARAM NAGAR District- Rohtas

DR AJAY KUMAR @ AJAY KUMAR Son of Late Sudama Singh Resident
of Village - Shivam De3ntal Clinic, Near Kali Sthan, Company Sarai, P.s.
Sasaram (Town), Distt.- Rohtas.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Bhaskar Shankar, Advocate
For the Opposite Party/s : Mr. Mritunjay Kumar Nirala,
Mr. Om Prakash Singh,

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 31-08-2022 Heard learned counsel for the petitioner, learned
counsel for the informant and learned A.P.P. for the State.

The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 406, 420,
467, 468, 471, 120(B) and 34 of the Indian Penal Code.

Learned counsel for the petitioner submits that the
petitioner is a person with clean antecedent and the informant
alleges that petitioner had entered into an oral agreement with
the informant to purchase nine decimal of land of the informant
as detailed in the FIR, @ of Rs. 6 lakh per decimal, thus total
consideration was Rs. 54 lakh, it is next alleged that petitioner
purchased the land in the name of co-accused 2 to 6 and became
a witness on the sale deed, it is further alleged that petitioner



disclosed that they are his relatives and accordingly the sale deed was executed, it is next alleged that petitioner and informant were friends so he believed the petitioner that land was purchased by his relatives but the informant had not received the consideration amount as per sale deed though the petitioner in the sale deed got it recorded that informant has received the entire consideration amount through cheques, it is next alleged that the petitioner thus misappropriated Rs. 54 lakh in connivance with co-accused, it is next alleged that thereafter accused no.3 threatened the informant by his mobile that boundary-wall would be constructed on the land he had purchased, it is next alleged that petitioner received Rs. 7 lakh per decimal of land from the purchasers but is not paying the amount.

Learned counsel for the petitioner submits that the petitioner has been falsely implicated in the present case, it is next submitted that it is not in dispute that both petitioner and the informant are doctor and are known to each other and are friends, it is next submitted that from bare perusal of the allegation as alleged in the FIR, it would manifest that the dispute is purely civil, which has been given color of a criminal case, it is next submitted that even presuming what has been



alleged is true in the FIR then also no offence under IPC is made out against the petitioner as petitioner is merely a witness on the sale deed, it is further submitted that the gist of the allegation is that informant executed the sale deed in favour of the persons who the petitioner described as his relatives even without getting the consideration amount for the said sale of the land, hence it was petitioner who cheated the informant. The learned counsel for the petitioner next submits that the sale deed clearly records that entire consideration amount by cheque has been paid to the informant, it is next submitted that even if the informant has not received the amount or the cheques were not given or the cheques were not encashed then also the same were not given by the petitioner to the informant rather the cheques if any would have been issued by the purchasers of the land, it is thus submitted that if the details of the cheque is recorded in the sale deed and the informant is able to establish that no such amount got credited in his account in pursuance of the cheques so described in the sale deed then the entire liability would be on the purchasers to substantiate that under what circumstances it was recorded in the sale deed that entire consideration amount has been paid by way of cheque, but definitely no aspersion can be cast on the petitioner that he in any manner was responsible



for committing the fraud or cheating the informant, it is next submitted that the informant has also filed Title Suit No. 651 of 2020 before the learned Sub-Judge-I Sasaram, Rohtas for getting all the four sale deed cancelled, the learned counsel thus submits that when the informant himself is availing the remedy available to him under law then the present criminal case is definitely an abuse of the process of Court at least against the petitioner, the learned counsel next submits that the purchasers of the land from the informant are in no way related to the petitioner, the learned counsel next submits that it absolutely does not stand to reason that a person who intends to sell his land would execute the sale deed even before receiving the entire consideration amount, it is also submitted that petitioner has not received any amount from the purchasers as alleged in the FIR.

Learned A.P.P. for the State and learned counsel for the informant opposes the prayer for anticipatory bail of the petitioner, the learned counsel for the informant submits that no prudent man would part with his property without seeking the entire consideration, but the same can happen only in friendship, this is what has happened in the present case that informant being friend of petitioner blindly relied on him and executed the



sale deed in favour of the purchasers even without receiving the entire consideration amount, it is next submitted that the informant relied on the petitioner to the extent so blindly that in the sale deed also it is only recorded that payment has been made through cheque without giving any details of the cheque, the learned counsel thus submits that since it has been recorded in the sale deed that payment has been made through cheque then at least if not the petitioner then the purchasers must establish before the appropriate Authority/Court that by which cheque the said payment was made to the informant, the learned counsel very vehemently next submits that if the Court would direct then the informant will produce all his bank records to show that no such amount was ever created in his account, the learned counsel for the informant very fairly submits that the mediation between the parties has failed.

Be that as it may, considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 25,000/- (Rupees Twenty-Five Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where



the case is pending/successor court in connection with Sasaram
P.S. Case No. 87 of 2021 subject to the conditions as laid down
under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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