

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.9274 of 2023**

Arising Out of PS. Case No.-439 Year-2022 Thana- CHHATAUNI District- East Champaran

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1. Azad Khan S/O Basir Khan
2. Rozy Khan W/O Azad Khan
3. Farhan Khan S/O Azad Khan
4. Faizan Khan S/O Azad Khan  
All resident of Village- Chakmanjan, P.S.- Barauli, District- Gopalganj at  
present 53 G.T. Road Pilkhana P.S.- Golabari, District- Howrah, (W.Bengal).  
... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

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**Appearance :**

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| For the Petitioner/s :     | Mr. Shakil Ahmad Khan, Advocate |
| For the Opposite Party/s : | Mr. Nafisuzzoha, Advocate       |
|                            | Ms. Sabina Talat, Advocate      |
| For the State :            | Mr. Binod Kumar, APP            |

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**CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA**  
**ORAL ORDER**

6      10-10-2023                      Heard learned counsel for the petitioners as well as  
learned Additional Public Prosecutor for the State.

2. The petitioners are apprehending their arrest in connection with Chhatauni P.S. Case No.439 of 2022, F.I.R. dated 18.08.2022 registered for the offence punishable under Sections 406, 420 IPC.

3. Prosecution case in, short is, that on 15.06.2021 Azad Khan who is relative of the informant came along with his wife and his son of the residence of informant and on the basis of relative's he has demanded Rs. 17,00,000/- for payment of fee of Medical College of his son Farhan Khan and M.B.A. College



fee of Faizan Khan and he has promise to return till May 2022 otherwise he failed to returned aforesaid amount then he will execute sale deed of his ancestral property (Land) i.e. situated at Chakmanjan Gopalganj. Being a relative and he has promise to return the money within time the informant had given Rs. 5,30,000/- Cash which was handed over to Azad Khan and thereafter Rs. 11,70,000/- the informant sent through Bank, i.e. on 1.7.2021 in account of Farhan Khan Rs, 3,00,000/- (Three lac) and on 16.9.2021 in the account of Faizn Khan Rs. 2,00,000/- (Two lac) and on 1.7.2021 the informant has given Rs. 99,500 +500 from A/C of Arif Khan to the A/C Farhan Khan and on 30.7.2021 and 15.9.2021 in the Faizan Khan A/c respectively Rs. 1,99,000 + 1000 = 2,00,000/-and 70,000/- and on 1.7.2021 the informant given Rs. 3,00,000/- (three lac) from his brother Izhar Khan A/C. It means the informant given Rs. 17,00,000/- (Seventeen lac) to the accused persons and the date was fixed till May 2022 for return the aforesaid amount. After expiry of aforesaid time then the informant asked Azad Khan for return of aforesaid amount firstly he has shows his inability to return and thereafter matter came to hot exchange and thereafter a *Panchayati* was held in between relatives friends and between informant and the accused persons and thereafter it was settled



they have to that further time till June. In spite of that he has not returned and thereafter the informant has served a legal notice to him but they does not answer the same and malafiedly they have grab the given amount neither they have return money nor the land has give to the informant. The informant believed that Azad Khan, his wife Rozy khan and Two sons Farhan Khan and Faizan Khan have taken benefit of relation and they have cheated Rs. 17,00,000/- and grab the same and they are not ready to return the same in spite of repeated demand. Accordingly, the FIR.

4. Learned counsel for the petitioners out-rightly submit that petitioners are ready to deposit the entire amount in question i.e. Rs.11,70,000/- in favour of the Nazarat Civil Court, Motihari subject to result of the case.

5. Learned APP for the State, on the other hand vehemently opposed the prayer for anticipatory bail of the petitioners.

6. In view of the aforesaid, let the petitioners, above named, in the event of their arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties



of the like amount each to the satisfaction of learned Chief Judicial Magistrate, East Champaran at Motihari in connection with Chhatauni P.S. Case No.439 of 2022, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(i) Petitioner shall furnish the Demand Draft in favour of the Nazarat Civil Court, Motihari of Rs.5,00,000/- at the time of furnishing his bail bond and thereafter he shall pay the remaining amount of Rs.6,70,000/- within a period of three months from the date of furnishing of his bail bond.

(ii) If the petitioner fails to comply the second part of the order, the informant has at liberty to move before the appropriate forum for cancellation of his bail bond.

(iii) Petitioners shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and on their absence on two consecutive dates without sufficient reason, their bail bonds shall be cancelled by the Court below.

(iv) If the petitioners tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of their anticipatory bail.



(v) And, further condition that the court below shall verify the criminal antecedent of the petitioners and in case at any stage, it is found that the petitioners have concealed their criminal antecedents, the court below shall take step for cancellation of anticipatory bail bond of the petitioners. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

**(Rajesh Kumar Verma, J)**

Prakash Narayan

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