

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.15821 of 2023

Arising Out of PS. Case No.-1182 Year-2022 Thana- KAHALGAON District- Bhagalpur

1. VEDANAND SAH SON OF LATE RAMFAL SAH RESIDENT OF VILLAGE - EKCHARI, P.S. - RASALPUR, DISTT. - BHAGALPUR.
2. HONEY RAJ SON OF VEDANAND SAH RESIDENT OF VILLAGE - EKCHARI, P.S. - RASALPUR, DISTT. - BHAGALPUR.

... .. Petitioner/s

Versus

THE STATE OF BIHAR

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Vindhya Keshari Kumar, Senior Advocate Mr. Swapnil Kumar Singh, Advocate
For the Opposite Party/s	:	Mr. Anuj Kumar Shrivastava, APP
For the Informant	:	Mr. Diwakar Upadhyaya, Advocate Ms. Preety Kunwar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

2 23-05-2023 Heard Mr. Vindhya Keshari Kumar, learned Senior Counsel for the petitioners and Ms. Preety Kunwar, learned Counsel who represents the informant and learned APP for the State.

The petitioners apprehend their arrest in connection with Kahalgaon Rasalpur P.S. Case No. 1182 of 2022 for the offence registered under sections 406, 420, 504, 506 and 120B of the Indian Penal Code lodged on 02.11.2022 by the informant, Rajkishor Prasad Sah.



The prosecution case, in brief, is that one Rajkishor Prasad Sah submitted his written complaint to the officer-in-charge of Sahayak police station Ekchari alleging that in the month of September 2020, the informant got handicapped after brain hemorrhage then the informant started residing with his two brother and he is unable to move anywhere alone.

It is further alleged that about 45 decimal of land has been acquired by the government and to receive the compensation, the informant has to open bank account and at that time the informant used to resides with the petitioner no 1 and on the assurance of petitioner no 2, who is the nephew of the informant, the bank account was opened in HDFC Bank.

Thereafter for treatment, the informant was taken to Siliguri for treatment by the petitioner no. 1 and while the informant stayed at Siliguri, the petitioner no 2 informed about the compensation amount which was deposited in bank account. Thereafter, when the informant returned to house and asked to take him to bank for withdrawal of amount, both petitioners did not took him to bank. Then the informant got suspicious and went to the house of his another brother, Devnandan Sah.

Thereafter, the informant visited the bank and on enquiry found that compensation amount was already received



in his account on 11.05.2022 and withdraw within 15 days only, thereafter the informant asked the petitioners to return the amount was assured but neither the money has been returned nor the informant was taken to bank to enquire the same.

Then the informant went to the house of another brother's house and started living there and with the help of his nephew, the informant went to the bank and on enquiry, it was found that entire compensation money stands withdrawn.

It is further been alleged that on the occasion of Deepawali i.e. 23.10.2022 when the informant demanded money then both the petitioners threatened him of dire consequence and the informant has apprehension that the petitioners might kill him for property.

Accordingly, the FIR.

At the outset, learned Senior Counsel fairly submits that that the petitioner no. 1, Vedanand Sah and his son Honey Raj, petitioner no. 2 was taking all care of the informant but now if the informant does not want to live with them, he always have the choice to live independently and/or lead his own life. The petitioners under *bona fide* concerned about his health issues was serving and now that the case has been lodged against them, they would like to settle it amicably taking into



account that after all they are family members.

In that view of the matter, on instructions, learned Senior Counsel submits that the entire compensation amount of Rs. 47,59,630/- shall be returned to the informant side within a period of 60 days from today in the following manner:-

- (i) Rs. 10 lakhs within a fortnight from today;
- (ii) another Rs. 10 lakhs within next fortnight of first payment ;
- (iii) the third installment of Rs. 10 lakhs within a further fortnight and;
- (iv) the rest of the amount of Rs. 17,59,630/- as the last installment by the fourth week from today.

Learned Counsel for the informant submits that she will ascertain about the payment of Rs. 1,20,000/- which according to the learned Counsel for the petitioners were made to Amarjeet Anand.

It is her further instruction that the informant also is of the same view that after all, they are the family members and wants that once entire amount is returned to him, both the brothers will sit on a table and sign a mutual document so that the same is finally taken up further for the conclusion of the present case lodged by the informant.



This Court would like to put on record the way the lawyer representing the parties gave assistance. While learned Senior Counsel does not need any word of appreciation as he himself is an institution having completed almost five decades, so far as the learned Counsel for the informant, Ms. Preety Kunwar is concerned, she definitely needs words of appreciation for tackling such a problematic case in a beautiful manner.

Let the petitioners in the event of arrest or surrender within a period of four weeks from the date of receipt of the order, shall be released on anticipatory bail on furnishing bail of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of the learned C.J.M., Bhagalpur in connection with Kahalgaon Rasalpur P.S. Case No. 1182 of 2022 subject to condition as laid down under Section 438(2) of the Cr.P.C.

(i) one of the bailor should be the family member of the petitioner, who shall provide official document to show their *bona fide*;

(ii) the petitioners shall appear on each and every date before the Trial court and failure to do so for two consecutive dates without plausible reason will entail cancellation of their



bail bond by the Trial court itself;

(iii) the petitioners shall in no way try to induce or promise or threat the witnesses or tamper with the evidences, failing which the State shall be at liberty to take steps for cancellation of the bail bonds;

(iv) the petitioners shall desist from committing any criminal offence again failing which the State shall be at liberty to take steps for cancellation of the bail bonds.

With the aforesaid observations, the anticipatory bail application stands allowed subject to modalities that has been accepted by both the parties.

(Rajiv Roy, J)

Neha/-

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

