

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.17177 of 2023

Arising Out of PS. Case No.-732 Year-2022 Thana- GAYA COMPLAINT CASE District-
Gaya

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1. MURTUZA ALI SON OF LATE ABDUL WALI R/O VILLAGE-
NARAYANPUR, POST- MAIGRA, P.S.- MAIGRA, DISTRICT- GAYA
 2. MUJTABA ALI @ MUSTAFA ALI SON OF LATE ABDUL WALI R/O
VILLAGE- NARAYANPUR, POST- MAIGRA, P.S.- MAIGRA,
DISTRICT- GAYA
 3. IMTIAZ ALI @ IMTEYAZ ALI SON OF LATE ABDUL WALI R/O
VILLAGE- NARAYANPUR, POST- MAIGRA, P.S.- MAIGRA,
DISTRICT- GAYA
 4. SARFARAZ ALAM @ SARFARAJ ALI SON OF LATE ABDUL WALI
R/O VILLAGE- NARAYANPUR, POST- MAIGRA, P.S.- MAIGRA,
DISTRICT- GAYA

... .. Petitioner/s

Versus

1. The State of Bihar
2. BANHAR ALI SON OF MD. RAHAMTULLAH R/O VILLAGE-
CHAUNHA, POST- MAIGRA, P.S.- MAIGRA, DISTRICT- GAYA

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arvind Kumar Singh, Advocate
For the Opposite Party/s : Mr.Nand Kishore Prasad, APP

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

2 30-05-2023 Heard Mr. Arvind Kumar Singh, learned counsel for

the petitioners and Mr. Nand Kishore Prasad, learned Additional

Public Prosecutor for the State.

2. Petitioners apprehend their arrest in connection
with Complaint Case No. 732/2022 registered for the offence
punishable under Sections 406 and 420 of the IPC.

3. As per complaint, an agreement was entered into
amongst the petitioners and O.P. No.2 for sale of a piece of land



@ Rs. 55,000/- per decimal having total consideration amount of Rs. 11,10,000/- out of which the complainant has paid a sum of Rs. 5,00,000/- as an advance to the petitioners but the petitioners have refused to transfer the land in favour of the complainant.

4. Learned counsel for the petitioners submits that the petitioners have not committed any offence in the manner as alleged and there was a breach of contract on behalf of complainant himself inasmuch as the balance amount towards consideration was to be paid entirely within a period of four months from the date of execution of the agreement but the complainant/OP No.2 failed to pay and/or tender the balance amount to the petitioners. Therefore, the sale-deed has not been executed by the petitioners. Learned counsel next submits that a sum of Rs. 3 Lacs has been returned to the complainant/OP No.2 and the balance amount of Rs. 2 Lacs shall be paid by the petitioners within a period of two months from today.

5. Regards being had to the submissions made by the parties, taking into consideration the nature of dispute and the fact that the petitioners are ready to refund the balance advance amount to the complainant/OP No.2 within a period of two months, I am inclined to grant provisional anticipatory bail to



the petitioners at this stage subject to the payment of Rs. 2 Lacs to the complainant/OP No.2 within two months from the date of this order.

6. Accordingly, let the petitioners, named above, in the event of arrest or surrender within four weeks from today, be released on provisional anticipatory bail, on furnishing bail bond of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Sherghati, Gaya/the court concerned in connection with Complaint Case No. 732/2022, subject to the condition as laid down under Section 438(2) CrPC, provided the petitioners shall return/pay a sum of Rs. 2 Lacs in favour of the complainant/OP No.2 within two months.

7. It is made clear that the provisional anticipatory bail shall stand valid for two months only and after payment of aforesaid amount of Rs. 2 Lacs to the complainant/OP No.2, the court concerned shall confirm the provisional anticipatory bail of the petitioners.

(Anil Kumar Sinha, J)

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