

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26740 of 2023

Arising Out of PS. Case No.-183 Year-2022 Thana- MAHESHKHUNT District- Khagaria

AJAY SAH Son of Late Thakur Sah R/V- Maheshkhut Station Road, Near
Durga Sthan, PS-maheshkhut, Dist- Khagaria

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sharda Nand Mishra, Advocate
		Mr. Harish Chandra Patel, Advocate
For the Informant	:	Mr. Jai Kishor Poddar, Advocate
For the Opposite Party/s	:	Mr. Bhanu Pratap Singh, A.P.P.

CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

5 30-08-2023 Heard learned counsel for the petitioner, learned
counsel appearing on behalf of the informant and learned
Additional Public Prosecutor for the State.

2. Petitioner seeks bail, who is in custody since
23.01.2023 in connection with Maheshkhunt P.S. Case No. 183
of 2022, G.R. No.2156 of 2022, F.I.R. dated 04.08.2022 for the
offences punishable under Sections 420, 406 of the Indian Penal
Code.

3. According to prosecution case, as per F.I.R. the
petitioner alongwith other co-accused persons have received
Rs.10,00,000/- (Rupees Ten lacs) from five persons for
executing sale deed and fled away without executing the sale
deed.

4. Learned counsel for the petitioner submits that



petitioner has clean antecedent and he has falsely been implicated in the present case. He further submits that the allegation as per F.I.R., the petitioner alongwith other co-accused persons have received Rs.10,00,000/- (Rupees Ten lacs) from five persons for executing sale deed and fled away without executing the sale deed.

5. Learned counsel for the petitioner further submits that the allegation as alleged in the F.I.R. is false and fabricated and petitioner has not received any amount as alleged in the F.I.R. and informant has not submitted any documentary evidence which suggest that she has given Rs.10,00,000/- (Rupees ten lacs) to the petitioner and it appears from the F.I.R. itself that the present matter is civil dispute and no case is made out under Section 406 and 420 of the Indian Penal Code. He further submits that the police after investigation submitted the charge sheet against the petitioner and the petitioner is in judicial custody since 23.01.2023.

6. The learned counsel for the informant has filed counter affidavit stating therein that the accused persons have received the money from the following persons :-

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|--------------------|----------------|
| 1. Babita Devi | Rs.5,37,000/- |
| 2. Santoshi Devi | Rs.1,30,000/- |
| 3. Kalanand Pandit | Rs. 1,00,000/- |



4. Mangal Chourasia	Rs.78,000/-
5. Irshaduddin	<u>Rs.1,35,000/-</u>
Total	Rs.9,80,500/-

7. Thereafter, Rs.2,48,000/- from Subas Choudhary which comes to Rs.12,28,500/-

8. Thereafter, the petitioner and other co-accused persons have also executed agreement on non-judicial stamp paper for the sale of land property in question and the receipt of amount was also incorporated in the case diary. The petitioner and other co-accused persons by fraud taken money of about Rs.10/- lacs from the informant and other co-accused persons and refused to executed the sale deed of land in question and sold the land in question to some other persons.

9. Rejoinder affidavit has been filed on behalf of the petitioner to the counter affidavit filed on behalf of the informant, in which the petitioner has categorically stated that the Annexure-A of the counter affidavit are completely forged and concocted document. In fact the Annexure-A is extract page of the agreement between Smt. Sangita Devi and Irshaduddin and signature of the petitioner is not tally from the signature of the Annexure-A of the counter affidavit and the alleged receiving money as annexed with the counter affidavit are completely fake, concocted and manipulated signature, date and



amount and in fact an agreement was held on 20.09.2021 in between Irshaduddin and co-accused Smt. Sangita Devi for sold of the land bearing Khata No.22, Khesra No.14, Khata No.23, Khesra No.10, Area-01-10 and its surrounding mentioned as North-Vijay Sah, South-Meera Devi, East-Sikko Paswan and West-Soling Road and agreement between the parties was held with condition that all consideration amount of Rs.18,00,000/- shall be pay till 02.10.2021 and got registry, if not paid, within stipulated period, the advance amount of Rs.50,000/- shall be forfeited and the present F.I.R. is not instituted by the Irshaduddin. It is admitted fact that the co-accused Smt. Sangita Devi executed two sale deed i.e. on 31.02.2022 to Smt. Punam Kumari in worth of Rs.9,25,000/-, land bearing Khata No.23, Khesra No.13, Area-0-0-15-0 (15 dhur) and sale deed on 16.06.2022 to Smt. Jhubi Kumari in worth of Rs.11,50,000/-, land bearing Khata No.22, Khesra No.14, Area-0-0-5-0 (5 dhur), in Khata No.23, Khesra No.13, Area0-0-5-0 (5 dhur), it is clear that land in question is belongs to co-accused Smt. Sangita Devi, not belong to petitioner.

10. Considering the aforesaid facts and circumstances, let the petitioner, above named, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of



the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Khagaria in connection with Maheshkhunt P.S. Case No. 183 of 2022, G.R. No.2156/2022, subject to the following conditions:-

1. Petitioner 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 his absence on two consecutive dates without sufficient reason, his bail bond shall be cancelled by the Court below.

2. If the petitioner tampers with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of bail.

3. And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. 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)

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