

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55758 of 2023

Arising Out of PS. Case No.-2309 Year-2022 Thana- KATIHAR COMPLAINT CASE
District- Katihar

MD. MOBARAK HUSSAIN, S/O LATE SHAMSUL HAQUE, R/O SOHRADANGI, P.S- MANIHARI, DISTT.- KATIHAR.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. KAMAL HUSSAIN, S/O MD. MOJJMEEL HAQUE, R/O SOHRADANGI, P.S- MANIHARI, DISTT.- KATIHAR.

... .. Opposite Party/s

Appearance :

For the Petitioner	:	Mr. Bhola Prasad, Advocate
For the State	:	Mr. Ram Sevak Choudhary, APP
For the Complainant	:	Mr. Najeeb Ahmad, Advocate
		Mr. Thakur Brajesh Singh, Advocate

CORAM: HONOURABLE MR. JUSTICE MADHURESH PRASAD
ORAL ORDER

- 2 30-08-2023 1. Heard learned counsel for the petitioner and learned APP for the State of Bihar, as well as learned counsel appearing for the complainant.
2. The petitioner is apprehending his arrest in connection with Complaint Case No. 2309 of 2022 registered for offence under Sections 406 and 120B of Indian Penal Code.
3. The complainant has alleged that the instant petitioner entered into an agreement for purchasing a land with the co-accused. The allegation is that the land was earlier purchased by the complainant along with the instant petitioner and the petitioner has sold the lands depriving the complainant of his rightful share.
4. It is submitted by learned counsel for the petitioner



that along with the complaint, there is no material to show that the lands were jointly purchased by the petitioner and the complainant. The complaint has been filed based on lust and greed. The assertion of the complainant to rightful share in the lands being sold by the instant petitioner, as per allegation is essentially a matter which is required to be raised in the appropriate civil proceedings based on documents in accordance with law.

5. Learned APP for the State as well as learned counsel for the complaint have opposed the prayer for bail. It is submitted that the complainant has been cheated by the instant petitioner and there are also two antecedents of the petitioner, as per disclosure made in paragraph-3 of the bail application.

6. On consideration of the rival submissions, this court, for the limited purposes of consideration for grant of anticipatory bail, is inclined to accept the submissions advanced on behalf of the learned counsel for the petitioner. The court does not find any documentary basis along with the complaint petition in support of the submissions made by the learned counsel for the complainant. Insofar as the two antecedents are concerned, disclosure in paragraph-3 of the bail application makes it clear that the two cases are also at the instance of the same complainant and arise out of these land related



transactions only. This Court is inclined to allow petitioner's prayer for grant of anticipatory bail.

7. Petitioner's prayer for anticipatory bail is allowed.

8. Accordingly, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from today, 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 C.J.M., Katihar, in connection with Complaint Case No. 2309 of 2022, subject to the conditions as laid down in Section 438(2) of the Code of Criminal Procedure as also subject to the following conditions:

(i) That one of the bailors will be a close relative of the petitioner who will give an affidavit giving genealogy as to how he is related with the petitioner. The bailor will also undertake to inform the court if there is any change in the address of the petitioner.

(ii) That the petitioner will be well represented on each date and if he fails to do so on two consecutive dates, his bail bond will be liable to be cancelled.

(Madhuresh Prasad, J)

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