

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.61534 of 2022

Arising Out of PS. Case No.-1113 Year-2016 Thana- BUXAR COMPLAINT CASE District-
Buxar

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1. RAJESH AGRAWAL S/o Hari Agarwal R/o Mohalla- Green Vatika Construction Company and Divya Drishti Grih Niraman Pvt. Ltd. - 6th Floor, Opposite of Umesh Tower, P.S-Adityapur (Industrial Area), Distt-Kharasawa, Jharkhand.
 2. ROHIT AGRAWAL S/o Hari Agrawal R/o Mohalla- Green Vatika Construction Company and Divya Drishti Grih Niraman Pvt. Ltd. - 6th Floor, Opposite of Umesh Tower, P.S-Adityapur (Industrial Area), Distt-Kharasawa, Jharkhand.
 3. HARI AGRAWAL @ HARI PRASAD AGRAWAL S/o Late Narayan Sah R/o Mohalla- Green Vatika Construction Company and Divya Drishti Grih Niraman Pvt. Ltd. - 6th Floor, Opposite of Umesh Tower, P.S-Adityapur (Industrial Area), Distt- Kharasawa, Jharkhand.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Jitendra Kumar S/o Prabhu Nath Prasad R/o Vill- Akhauripur Gola, Chausa, P.S.- Buxar, Distt- Buxar.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Giridhar Gopal Tiwary
		Mr. Rajendra Narayan
For the Opposite Party/s :		Mr.Dr.Mrityunjaya Kr.Gautam
For the Informant	:	Mr. Dhiraj Sagar

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

7 16-03-2023 Heard learned counsel for the petitioners and the
State.

Petitioners apprehend arrest in a case registered for
the offence punishable under Sections 406, 420 of the IPC.

The prosecution case in brief is that, the accused
persons have deceitfully received an amount of Rs. 9,50000/-
from the complainant on verbal contract for providing flat in
favour of OP no. 2 within 2½ years and the complainant had



paid the said payment in the account(s) provided by the accused and the said accounts are (i) Rajesh Agarwal, (ii) Green Vatika Construction Co. Ltd, (iii) Divya Grih Nirman Pvt. Ltd, (iv) Shankar Lal Sharma and (v) Ganta Ramesh. It is further alleged that on 08.11.2016, the complainant sent a legal notice to the accused persons through his advocate against them but neither they provided that nor they returned the money. Thus petitioners have grabbed his money and committed the offence of breach of trust.

It is submitted on behalf of the petitioner, that as per the complainant the occurrence has said to have taken place in the year 2014 and the present case has been filed after much delay which is suggestive to the effect that the same has been lodged after much deliberation and after thought. As a matter of fact, petitioners are in steel business and as has supplied steel to the Maa Bhagwati Steel Buxar which belongs to the Complainant, Jitendra Kumar who had made part payment for steel but not paid the substantial part and in order to grab remaining amount this false fabricated and concocted case has been lodged. He lastly submits that it is apperrant from the complainant that dispute is of civil nature and arises out of business transaction between petitioner no. 1 Rajesh



Agarwal and the informant Jutendra Kumar and no case under sections 406, 420 of the IPC is made out. Petitioner nos. 2 and 3 are brother and father of the petitioner no. 1 respectively.

However learned counsel for the complainant vehemently opposes the pre-arrest bail application of the petitioner and submits that accused persons took loan of Rs. 9,50,000/- from the complainant in the name of providing flat in favour of OP no. 2 but till date neither they have returned the money nor they have allotted any flat and as such they don't deserve pre-arrest bail.

Considering the nature of dispute, in the event of arrest/surrender within six weeks from today, let the petitioners, above named, be released on 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 CJM, Buxar in connection with Complaint Case No. 1113(C), 2016 subject to the conditions laid down under section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

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