

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.130 of 2022

Arising Out of PS. Case No.-419 Year-2019 Thana- BUDDHACOLONY District- Patna

PURUSHOTTAM KUMAR SINGH S/o Surendra Singh Resident of Flat No. 304, Krishna Kunj Aartment, Krishna Nagar, Road No. 8, East Boring Canal Road, P.S. Budha Colony, District Patna, Permanent resident of Village and Post office Malarh, P.S. Udwant Nagar, District - Bhojpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

WITH
CRIMINAL MISCELLANEOUS No. 15 of 2022

Arising Out of PS. Case No.-419 Year-2019 Thana- BUDDHACOLONY District- Patna

RAJ KUMAR @ RAJ KUMAR SINGH S/O RAJENDRA PRASAD SINGH Resident of Singh Bhawan, Near HRDT Public School, Mohalla Shiv Puri, P.S.- Shastri Nagar, Distt.- Patna, Bihar

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

(In CRIMINAL MISCELLANEOUS No. 130 of 2022)

For the Petitioner	:	Mr. Prabhat Ranjan, Advocate
For the State	:	Mr. Jagdhar Prasad, APP
For the Informant	:	Mr. Nirbhay Prashant, Advocate

(In CRIMINAL MISCELLANEOUS No. 15 of 2022)

For the Petitioner	:	Mr. Prabhat Ranjan, Advocate
For the State	:	Mr. Tarun Prasad Mandal, APP
For the Informant	:	Mr. Nirbhay Prashant, Advocate

CORAM: HONOURABLE MR. JUSTICE ANJANI KUMAR SHARAN
ORAL ORDER

12 21-12-2023 As both these bail applications have cropped up from the same police station case number, hence, with consent of parties, they are being heard together and disposed of by this common order.



2. Heard learned counsel for the petitioners and learned A.P.P. for the State assisted by learned counsel for the informant.
3. The petitioners apprehend their arrest in a case registered for the offences punishable under Sections 406, 420 & 120B of the Indian Penal Code.
4. The prosecution case, in brief, is that informant along with his sister had booked two properties measuring 3000 sq. ft. and 1500 sq. ft. in Food Court at Plot Nos.44 and 45, Knowledge Park, V, Greater Noida UP. The informant came to know about the aforesaid project through these petitioners. On the direction of the Director of the Company, payment was made through cheques and memorandum of understanding was signed between the informant and the authorized signatory of the Builder Company. It is further alleged that under the Assured Return Scheme, the Company had to repay to the informant certain amount along with pre-lease rental, which has not been paid in totality and payment was stopped after initial Assured Return and thus the present F.I.R. has been lodged against the petitioners.
5. It is submitted by learned counsel for the petitioners that no such occurrence as alleged ever took place. Petitioners have been falsely implicated in this case. The allegation levelled



against the petitioners is not specific rather general and omnibus in nature. It is further submitted that the sequence of events in the present case does not fulfill the necessary ingredients of an alleged offences. The entire genesis of the informant's case is the non-performance of the contract on the part of the Company as well as the informant, for settling the scores in a dispute which is entirely civil in nature but being camouflaged as a criminal prosecution in the present case. It is further submitted that the nature of allegation in the F.I.R. and the subject matter of dispute is covered under the definition of deficiency in service within the meaning of Consumer Protection Act. It is further submitted that the role of the petitioners was only an intermediary between the informant and the Company. It is also submitted that Smt. Shikha Singh, who was working as the agent on behalf of the Company, has already been granted anticipatory bail by the learned Court below on 24.02.2021 and the case of the petitioners stands on better footing in comparison to her. Petitioners have no criminal antecedent as mentioned in para-3 of this application.

6. Learned APP for the State assisted by learned counsel for the informant opposed the prayer for bail. It is further submitted by learned counsel for the informant that not a single



rupee has been paid to the informant in the name of MoS but the entire amount was adjusted in the name of different charges. It is further submitted that petitioners along with other accused persons have received money from the informant and his sister regarding the purchase of the proposed property. Even as per Memorandum of Settlement, the clauses regarding which the informant and his sister should have received money have not been complied with. It is further submitted that petitioners along with other accused persons duped almost Rs.2,44,52,776/- from the informant in the name of sale of the proposed property. It is also submitted that several criminal cases as well as cases in RERA, NCLT and Hon'ble Apex Court are pending against the Company and the accused persons.

7. Having heard learned counsel for the parties and perusing the materials on record, it appears that petitioners had worked as only intermediary, several cases are pending against the Company in different forums including the Hon'ble Apex Court and more so the nature of the dispute is purely civil in nature, let the above named petitioners, be released on bail, in the event of their arrest or surrender before the learned Court below within a period of six weeks from today, on furnishing bail bond



of Rs.25,000/- (Rupees Twenty Five Thousand) each with two sureties of the like amount each to the satisfaction of the learned lower Court where the case is pending/successor Court in connection with Budha Colony P.S. Case No.419 of 2019 (G.R. No.10231 of 2019), subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anjani Kumar Sharan, J)

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