

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.66919 of 2023

Arising Out of PS. Case No.-419 Year-2023 Thana- BIHPUR District- Bhagalpur

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1. Bibimahesba Anwar @ Maheshba Anwar aged about – 39 years (female), W/O Md. Mustaq Ahmad, R/O Vill. And P.O- Bihpur, District.- Bhagalpur.
 2. Md. Mustaq Ahmad, aged about – 50 years (Male), S/O Hanif Ansari Sakin R/O Vill. And P.O- Bihpur, District- Bhagalpur.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Binay Kumar, Advocate

For the Opposite Party/s : Ms. Nirmala Kumari, A.P.P.

CORAM: HONOURABLE MR. JUSTICE PURNENDU SINGH
ORAL ORDER

2 19-10-2023 Heard Mr. Binay Kumar, learned counsel appearing on behalf of the petitioners and Ms. Nirmala Kumari, learned APP for the State.

2. The petitioners seek pre-arrest bail in connection with Bihpur P.S. Case No. 419 of 2023 dated 06.07.2023 registered for the offence punishable under Sections 406, 409 and 420 of the Indian Penal Code.

3. As per the allegation made in the FIR, petitioner had cheated the informant by breaching the terms of the agreement with respect to a piece of land, which was entered into by him and the informant.

4. Learned counsel appearing on behalf of the



petitioner submitted that in course of agreement to sale certain piece of land belonging to the petitioners, the informant had agreed to pay an amount of Rs. 18.51 lacs, out of which, Rs. 9.5 lacs by way of bank transaction and in cash, was paid to the petitioners. He further submitted that time duration was fixed for making payment of the entire amount of Rs. 18.51 lacs but the informant failed to make payment within stipulated time and the petitioners were no more obligated to execute sale deed in favour of the informant. The allegations made in the FIR are frivolous. He further submitted that nature of allegation is purely civil in nature and the informant can avail appropriate remedy before competent Civil Court having jurisdiction, in accordance with law or in alternative, the informant can deposit the amount as per the current Market Value Rate (MVR). Petitioners have clean antecedent. On these grounds, petitioners seek to be released on pre-arrest bail.

5. Learned APP submitted that allegations are purely civil in nature and the parties may avail appropriate remedy before a competent Civil Court having jurisdiction.

6. Having considered the rival submissions made on behalf of the parties, as well as, the fact that petitioners had agreed to sale a piece of land belonging to them to the informant



but the informant was unable to deposit full amount and only Rs. 9.5 lacs out of total amount of Rs. 18.51 lacs. Petitioners are still ready to execute sale deed in favour of the complainant if the complainant make payment of the remaining amount as per the current Market Value Rate (MVR) of the said piece of land. It is further clarified that the petitioner is legally bound to register the said piece of land after determining the rate proportionate to the value of land and admittedly on such date, the informant had deposited Rs. 9.50 lacs and he can pay the remaining amount at the present Market Value Rate (MVR) for registry of the remaining piece of land as mentioned in the agreement.

7. The petitioners, above named, are directed to be released on provisional bail for a period of three months so that both the parties can discharge their liability in terms of the order of this Court, in the event of their arrest or surrender before the Court below within a period of four weeks from today, on furnishing bail bond of Rs. 20,000/- (Rupees Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M. 1st Naugachia, in connection with Bihpur P.S. Case No. 419 of 2023 dated 06.07.2023, subject to the condition as laid down under Section 438(2) of the Cr.P.C.



8. In case, parties transacted in the manner as prescribed in this order, the provisional bail granted to the petitioner shall be made absolute on such terms and conditions as learned Court below deems it fit and proper.

9. In case of failure on behalf of either of the parties, parties will be affected accordingly.

10. Accordingly, the present bail application is disposed of.

(Purnendu Singh, J)

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