

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.22588 of 2024**

Arising Out of PS. Case No.-417 Year-2022 Thana- KHAGAUL District- Patna

Arvind Rai Son of Late Rupa Rai Resident of Mohalla-Daudpur, PS-Sahpur,  
District-Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Ajay Narayan Rai Son of Sri Janeshwar Rai Resident of Cant Road Gari Khana, Rampur, PS-Khagaul, Dist-Patna

... .. Opposite Party/s

**Appearance :**

|                          |   |                            |
|--------------------------|---|----------------------------|
| For the Petitioner/s     | : | Ms. Vaishnavi Singh        |
| For the Opposite Party/s | : | Mr. Pramod Kumar Pandey    |
| For the O.P. No.2        | : | Mr. Sunit Kumar Srivastava |
|                          |   | Mr. Sudhanshu Trivedi      |

**CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA**  
**ORAL ORDER**

2      25-04-2024                      1. Heard learned counsel for the petitioner and learned A.P.P. for the State along with learned counsel appearing on behalf of the O.P. No. 2.

2. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 323, 406, 420, 463, 467, 506, 504 and 34 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that petitioner is a senior citizen aged about 68 years and has antecedent of three cases, but then all the cases have been instituted by those who duped him in name of purchasing his land.

4. Learned counsel for the petitioner next submits that



petitioner in the year 2008 had entered into an agreement for sale with one Sanjay Singh for selling a piece of land, but then the said agreement of sale of the year 2008 by efflux of time lapsed, thereafter, in the year 2011, the petitioner entered into a subsequent agreement for sale with the petitioner which is Annexure-2 to the anticipatory bail application. It is next submitted that in the agreement for sale entered in between the petitioner and the informant, it was clearly recorded that the land for which the instant agreement for sale is being entered, for the said land, an agreement was also entered with Sanjay Singh. It is further submitted that in the agreement for sale, it is clearly recorded that petitioner also received an amount of Rs. 5 Lakhs by way of advance when the entire consideration of the piece of land was Rs. 54 Lakhs.

5. The learned counsel for the petitioner next submits that in terms of the agreement of sale entered in between the petitioner and the informant in the year 2011, the entire consideration amount was to be paid within a period of six months, failing which the advance amount would be forfeited.

6. The learned counsel for the petitioner further submits that in terms of the agreement for sale entered in the year 2011, the advance amount given by the informant to the



petitioner stands forfeited for non-compliance of the terms of the agreement. It is next submitted that if the informant intended to recover the amount, then the informant ought to have moved before a Court of competent civil jurisdiction for recovering the money, but then the same was not done, as informant was aware that after lapse of three years, he could not file a money suit even. It is next submitted that had the petitioner moved a Court of competent civil jurisdiction within time for recovering his money, the petitioner would have appeared and rebutted his claim, but then the said opportunity never came and the informant by instituting instant FIR intends to recover money through criminal proceeding. It is further submitted that criminal Court should not be used as a tool for recovery.

7. Learned A.P.P. for the State along with learned counsel appearing on behalf of the O.P. No. 2 opposes the prayer for anticipatory bail of the petitioner, but are not in a position to rebut the submissions of the learned counsel for the petitioner that in terms of the agreement, advance was forfeited and informant did not move the Court of competent civil jurisdiction in time for recovering the amount.

8. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the



event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Khagaul P.S. Case No. 417 of 2022 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

**9. Accordingly, the present anticipatory bail application stands allowed.**

**(Satyavrat Verma, J)**

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