

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46896 of 2024

Arising Out of PS. Case No.-400 Year-2022 Thana- DEHRI TOWN District- Rohtas

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Birendra Pandey S/o- Late Dinesh Pandey R/o Village- Senuar, P.S.-
Shivsagar, District- Rohtas

... .. Petitioner/s

Versus

1. The State of Bihar
2. Manti Devi W/o Late Ram Awtar Ram R/O Village-Badiha, P.S. Indrapuri,
Distt-Rohtas

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Ashutosh Tripathy, Advocate
For the State	:	Mr. Ram Priya Sharan Singh, APP
For the O.P. No.2	:	Mr. Ramchandra Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE SHAILENDRA SINGH
ORAL ORDER

6 06-12-2024 Heard Mr. Ashutosh Tripathy, learned counsel for
the Petitioner, Mr. Ramchandra Singh, learned counsel for the
Informant and Mr. Ram Priya Sharan Singh, learned APP for
the State.

2. The petitioner apprehends his arrest in connection
with Dehri (Indrapuri) P.S. Case No. 400 of 2022 dated
07.06.2022 registered for the offences punishable under
Sections 406, 420, 467, 468, 328, 302 and 34 of the Indian Penal
Code.

3. As per prosecution, the informant stated that on
09.03.2016 at about 10:00 A.M. accused persons, Durga Prasad,
Vinod Ram and Dadan Paswan came to her house and persuaded
her husband to purchase the land of one, Raghupati Pandey and



in the name of giving money to said Raghupati Pandey, took an amount of Rs. 29,00,000/- from the complainant and her husband. Thereafter, accused persons introduced Birendra Pandey (Petitioner) to the victim who stated that Raghupati Pandey was with him and wanted to sell additional two bigha land and took an additional amount of Rs. 17,00,000/- from the complainant's husband in the name of registry but no sale deed was executed. Though, the petitioner has returned a sum of Rs. 85,000/- only but not returned the rest amount and later on all the accused poisoned her husband to death.

4. Mr. Ashutosh Tripathy, learned counsel appearing for the petitioner submits that as per the FIR, initially, the transaction in between the complainant's husband and co-accused persons started in the year 2016 and admittedly, the complainant's husband died on 16.10.2019 but the complaint, which was sent to the police for investigation, was filed on 07.06.2022 and the said fact in itself is sufficient to show the malafide intention on the part of the complainant to harass the petitioner who is a practicing advocate. The complainant's allegation as to giving Rs. 17,00,000/- (Rupees Seventeen Lakh) to the petitioner is completely vague as in this regard, no specific date and mode of payment has been disclosed by the



informant in her complaint. It is further submitted that in fact, the husband of the complainant was a drug addict and mentally ill, so, he committed suicide for which Indrapuri P.S. (U.D.) Case No. 13/2019 was registered which is still pending and one co-accused namely, Vinod Ram, has been granted anticipatory bail by the co-ordinate Bench of this Court vide order dated 31.01.2024 passed in Cr. Misc. No. 2707 of 2024.

5. Mr. Ramchandra Singh, learned counsel appearing for the informant has vehemently opposed this petition and submitted that the instant matter relates to serious cheating as well as killing the complainant's husband by poisoning him. The accused firstly persuaded the complainant's husband to purchase a land belonging to one Raghupati Pandey but the said person had died on 15.05.1993 and the said fact in itself is sufficient to show the dishonest intention of the accused and of the petitioner being present from the very beginning of the transaction and there is documentary proof of receiving of Rs. 17,00,000/- by this petitioner from the complainant's husband as he has accepted his liability to pay the alleged amount of Rs. 17,00,000/- by swearing in an affidavit in the form of *Ikrarnama* of which details is available in the case diary and the complainant's husband died in suspicious circumstances and the



instant matter relates to siphoning of Rs. 45,15,000/- by the accused including this petitioner which was taken from complainant's husband in the name of selling a particular land belonging to a deceased person.

6. Learned APP for the State has also opposed the prayer for bail of the petitioner.

7. Heard both the sides and perused the FIR and Case Diary of this case. The instant matter relates to serious cheating as the accused persons persuaded the complainant's husband to purchase a land belonging to one, Raghupati Pandey, who had died several years ago and initially a sum of Rs. 29,00,000/- was taken by the co-accused from the complainant's husband and thereafter, the petitioner came into picture and he was introduced to the complainant's husband and this petitioner also persuaded the victim to purchase two bigha more land of said Raghupati Pandey and on believing this petitioner, the complainant's husband (victim) gave Rs. 17,00,000/- to the petitioner but later on neither proposed land was sold nor the alleged paid amount was returned back and in the meantime, the complainant's husband died in suspicious circumstances and in this regard an U.D. Case was lodged which is still pending and as per allegation, the accused persons including the petitioner



poisoned the victim to death. The case is under investigation and as per paragraph ‘9’ of the case diary, the petitioner executed his own written undertaking (*Ikrarnama*) in the form of affidavit in presence of some witnesses accepting his liability to pay Rs.17,00,000/- to the victim of which details is mentioned in the said paragraph of the case diary. Considering these facts and nature of allegation, this Court is not inclined to grant the relief of anticipatory bail to this petitioner, accordingly, his prayer stands rejected.

(Shailendra Singh, J)

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