

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.47567 of 2024

Arising Out of PS. Case No.-321 Year-2022 Thana- DIGHA District- Patna

1. Daroga Rai Son of Late Ramchandra Rai R/O Vill.- Ramjee Chak, P.O.- Bata ganj, P.S.- Digha, Dist.- Patna, Bihar
2. Rajesh Kumar Son of Sri Daroga Rai R/O Vill.- Ramjee Chak, P.O.- Bata ganj, P.S.- Digha, Dist.- Patna, Bihar

... .. Petitioner/s

Versus

The State Of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Pramhansh Kumar Puri, Advocate
For the State	:	Mr. Nand Kishore Prasad, APP
For the Informant	:	Mr. Arun Kumar Tiwari, Advocate
		Mr. Amar Anand, Advocate

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

4 26-10-2024 A copy of the contract is filed by learned counsel for the informant across the Board and the same is taken on record.

2. Heard Ld. counsel for the petitioners, Ld. APP for the State and learned counsel for the informant.

3. The petitioners seek bail, apprehending their arrest, in connection with Digha Case No. 321 of 2022 dated 25.05.2022, registered for the offences punishable under Sections 419, 420 and 406 read with Section 34 of the Indian Penal Code.

4. As per the F.I.R., a contract for sale between the petitioner Daroga Rai and the informant Vinay Kumar regarding parcel of land was executed. But, the petitioner Daroga Rai is not executing the sale deed, despite receipt of part consideration



of Rs.45,01,000/- out of total consideration amount of Rs.68,20,000/-.

5. Ld. counsel for the petitioners submits that the Petitioners are innocent and have falsely been implicated in this case. He further submits that as per the alleged facts and circumstances, no offence is made out against the petitioners. It is a dispute of purely civil nature and the informant has already moved Civil Court by way of filing Civil Suit for specific performance at Danapur. He also submits that it is the informant who did not take steps to execute the sale deed within stipulated time and now the petitioners are ready to pay back the consideration amount paid by the informant.

6. It is also stated in paragraph no. 2 of the bail petition that the petitioners have not moved this Court earlier either for anticipatory bail or regular one in the instant case.

7. It has further been stated in paragraph no.3 of the bail petition that the petitioners have no criminal antecedents.

8. However, learned counsel for the informant and learned APP for the State vehemently oppose the prayer of the Petitioners for bail submitting that the petitioners have *mala fide* not executed the sale deed despite receiving more than 50% of total consideration amount and hence, case is made out under



Section 420 of the Indian Penal Code. He further submits that in the facts and circumstances of the case, civil as well as criminal cases can go on simultaneously and petitioners do not deserve anticipatory bail.

9. Perused the material on record and considered the submission advanced by both the parties.

10. I find that contract has been executed between petitioner Daroga Rai and informant Vinay Kumar for sale of a parcel of land for total consideration amount of Rs.68,20,000/- out of which 45,01,000/- has been paid. From the contract, it transpires that in case of any dispute regarding the sale and purchase, there is provision for giving back the consideration amount with compensation. I further find that alleged facts and circumstances basically constitute a dispute of civil nature and informant has already approached Civil Court for specific performance of the contract.

11. Considering the aforesaid facts and circumstances, particularly the civil nature of the dispute, **this petition is allowed**, directing the petitioners, above-named, to be enlarged on bail, in the event of their arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on their furnishing bail bonds



in the sum of Rs. 10,000/- (Ten Thousand) each with two sureties of the like amount each to the satisfaction of Ld. A.C.J.M.-XIII., Patna, in connection with Digha P.S. Case No. 321 of 2022, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and on the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioners have any criminal antecedents, Ld. court below shall cancel the bail bonds of the petitioners after hearing them and getting satisfied that the petitioners have concealed their criminal antecedents despite their knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioners.

12. Ld. Civil Court, where the Civil Suit between the parties is going on, is requested to expedite the consideration of the suit.

(Jitendra Kumar, J.)

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