

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48057 of 2024

Arising Out of PS. Case No.-1033 Year-2019 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Mukesh Kumar Singh S/o Shivnath Singh R/o Jai Mahavir Colony, P.S. - Bahadurpur, Distt. - Patna
 2. Saurav Singh @ Bhanu Singh @ Kumar Saurav S/o Nandkishore Singh R/o Purvi Lohanipur, P.S. - Kadamkuan, distt. - Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Anil Singh S/o Sri Lakhan Singh R/o Baalgudar, P.S. - Lakhisarai, Distt. - Lakhisarai, At present resident of Kurji Baalu Par, P.O. - Sadakat Ashram, P.S. - Digha, Distt. - Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Pritish Kumar Lal, Advocate
For the Opposite Party/s : Ms. Rina Sinha, APP

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 29-07-2024 1. Heard learned counsel for the petitioners, learned APP for the State along with learned counsel appearing on behalf of the O.P. No.2.

2. The petitioners seek bail in anticipation of their arrest in a case registered for the offences punishable under Section 420 of the Indian Penal Code in connection with Complaint Case No.1033(c) of 2019.

3. The learned counsel for the petitioners submit that petitioner no.1 has antecedent of one case and petitioner no.2 has antecedent of three cases and the complainant alleges that the petitioners are builders and are Directors of M/s Gandeo Ingicom, further on 15.03.2011 a development agreement was



entered in between the petitioners and the complainant with respect to 11.999 decimals of land of the complainant for constructing a multi storied apartment, further the development agreement contained clauses that the building would be constructed within a stipulated time and standard material would be used, further the share of the respective parties were demarcated, it is next alleged that the petitioners used inferior material in construction and even did not handover 248 Sq.feet out of the complainant of 45%.

4. The learned counsel for the petitioners submit that from bare perusal of the allegation as alleged in the complaint, it would manifest that the dispute is purely civil to which a criminal colour has been given. It is also submitted that the complainant alleges that a development agreement was entered between the petitioner and the complainant for developing his land for constructing a multi storied building which had certain clauses. It is further submitted that in the event, if the clauses of the development agreements stands breached, then definitely the remedy of the complainant was to approach a court or authority of competent jurisdiction, but definitely a criminal case was unwarranted.

5. The learned counsel appearing on behalf of the



complainant submits that petitioners have approached this Court with unclean hand. It is next submitted that petitioners have also concealed their antecedents. It is next submitted that a complaint case has been instituted against the petitioners in the State of Jharkhand in which they are an absconder, but then the said facts has not been stated in the instant anticipatory bail application. It is also submitted that the order impugned is dated 08.01.2024 and thereafter the petitioners moved this Court seeking anticipatory bail by filing this application on 22.06.2024, which amply demonstrates that petitioner approached this Court at their leisure. It is also submitted that petitioners moved this Court only after 82 Cr.P.C. notice was issued on 12.06.2022.

6. The learned counsel appearing on behalf of O.P. No.2 thus submits that a person who has approached this Court with unclean hands and process under Section 82 Cr.P.C. has been issued whether such accused deserves the privilege of anticipatory bail.

7. The learned counsel appearing on behalf of petitioners rebut the said submission of the learned counsel appearing on behalf of O.P. No.2 and submits that process under Section 82 Cr.P.C. was not issued prior to institution of the



instant case.

8. Considering the submissions made by the learned counsel for the petitioners, the petitioners above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks, are directed to be released on anticipatory bail on their furnishing bail-bonds in the sum of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, VI, Danapur, Patna in connection with Complaint Case No.1033(c) of 2019, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

9. However, it is made clear that the learned trial court before accepting the bail bonds of the petitioners shall verify the as to whether process under Section 82 Cr.P.C. was issued prior to 22.06.2024 or after 22.06.2024, in the event, if it is found that process under Section 82 Cr.P.C. was issued prior to 22.06.2024, in that event, the present anticipatory bail order shall not be given effect to.

10. The application stands allowed.

(Satyavrat Verma, J)

Prakash Narayan

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