IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53193 of 2024

Arising Out of PS. Case No.-269 Year-2022 Thana- SARAN COMPLAINT CASE District-Saran

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1. Niraj Mahto @ Raj Mahto, Son of Yogendra Mahto, Resident of Sakin-Puchari, P.O.- Puchari, P.S.- Baniyapur, Distt.- Saran, Bihar
2. Yogendra Mahto, Son of Motilal Mahto, Resident of Sakin - Puchari, P.O.-Puchari, P.S.- Baniyapur, Distt.- Saran, Bihar
3. Mukesh Mahto, Son of Prabhu Mahto, Resident of Sakin - Puchari, P.O.-Puchari, P.S.- Baniyapur, Distt.- Saran, Bihar

... ... Petitioner/s

Versus

1. The State of Bihar
2. Uttam Narayan Singh, Son of Late Bindeshwar Singh, Resident of Suhai, Sahpur, P.S.- Baniyapur, District- Saran

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Samir Kumar, Advocate
For the State	:	Mr. Satendra Narayan Singh, APP
For the Opp. Party No.2	:	Mr. Atul Chandra, Advocate

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CORAM: HONOURABLE MR. JUSTICE HARISH KUMAR
ORAL ORDER

4 17-12-2024 Heard Mr. Samir Kumar, learned Advocate for the petitioners and the learned APP for the State. The informant/Opposite Party no.2 is represented through Mr. Atul Chandra, learned Advocate.

2. The petitioners are apprehending their arrest in connection with Complaint Case No. 269 of 2022 registered for the offences punishable under Sections 120(B), 420 and 506 of the Indian Penal Code.

3. It is alleged that on the pretext of providing job in

Railway to Brijesh Kumar, the petitioners have taken Rs.6,50,000/-; out of which in the year 2017, Rs.1,40,000/- was transferred in the account of petitioner no.1. Despite the assurance, when job was not provided, the complainant approached to the petitioners to get back his money, the same was refused and in this way all the petitioners have cheated the complainant.

4. Learned Advocate for the petitioners referring to the Complaint case primarily contended that in fact the parties are known to each other prior to the institution of this case. The son of the petitioner no.2 had given Rs. 1,06,000/- to the complainant on 04.02.2017 through Bank account and in lieu of the aforesaid amount, Rs.1,40,000/- was transferred in the name of petitioner no.1. Even if the allegation levelled in the complaint petition is taken to be true, for the sake of argument, the parting of money for an illegal purpose to provide job is itself an offence and if the same has not been done, can the complainant is said to be cheated is the contention of the learned Advocate for the petitioners. It is further contended that admittedly the alleged amount was handed over to the petitioners in the year 2017 and the present complaint has been filed in the year 2022, after a delay of five years without there

being any explanation. Moreover, once the recourse of Money Suit is barred, no complaint case be filed by using it as an instrument to realize the money. The petitioners having fair antecedent undertake that they will fully cooperate in the proceeding of the court.

5. On the other hand, learned APP for the State as well as informant oppose the bail application and submit that there is material available on record, which clearly suggests that Rs.1,40,000/- has been transferred to the account of petitioner no.1 on 04.09.2017 through RTGS. The petitioners have allured the complainant on the pretext of providing job to his son and thereby cheated and realized Rs.6,50,000/-. Learned Advocate for the complainant further contended that the complaint witnesses have also supported the allegation levelled in the complaint. It is lastly contended that the petitioners bear criminal antecedent and, as such, the petitioners may be released on bail only after verification of their criminal antecedent, if the bail is granted.

6. Regard being had to the submissions made on behalf of the parties and considering the delay in lodging of the complaint and the submissions made on behalf of the petitioners, especially the fact that parting money for getting an

illegal advantage itself is a crime, coupled with the fair antecedent of the petitioners, let the petitioners, named above, in the event of their arrest or surrender before the court below within four weeks from the date of receipt/production of a copy of this order, be released on bail on furnishing bail bonds of Rs.10,000/- (Rupees ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Saran at Chapra in connection with Complaint Case No. 269 of 2022, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. with the further condition that one of the bailors shall be the own/close relative of the petitioners.

7. The court below shall verify the criminal antecedent of the petitioners and in case, at any stage, it is found that the petitioners have concealed their criminal antecedent, the court below shall take immediate step for cancelling the bail bond of the petitioners. However, the acceptance of bail bonds, in terms of the above-mentioned order, shall not be delayed for this purpose or in the name of verification.

(Harish Kumar, J)

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