

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53746 of 2023

Arising Out of PS. Case No.-92 Year-2022 Thana- SAMASTIPUR COMPLAINT CASE
District- Samastipur

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1. Shambhu Nath Jha, aged about 35 years (Male), Son of Shiv Kumar Jha, Resident of village - Simariya, P.S. - Barauni, Distt. - Begusarai.
 2. Amar Nath Jha, aged about 32 years (Male), Son of Shiv Kumar Jha, Resident of village - Simariya, P.S. - Barauni, Distt. - Begusarai.
 3. Meena Devi, aged about 65 years (Female), W/o Sri Shiv Kumar Jha, Resident of village - Simariya, P.S. - Barauni, Distt. - Begusarai.

... .. Petitioners

Versus

The State Of Bihar

... .. Opposite Party

Appearance :

For the Petitioners	:	Mr. Vijay Anand, Advocate
For the Informant	:	M/S. Sushil Kumar Jha and Santosh Kumar Jha, Advocates
For the State	:	Mr. Yogendra Kumar, A.P.P.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

4 28-03-2024 A supplementary affidavit has been filed on behalf of the petitioners. Let it be kept on the record.

2. Heard learned counsel for the petitioners, learned counsel for the informant and learned Additional Public Prosecutor for the State.

3. The petitioners are apprehending their arrest in connection with Complaint Case No. 92 of 2022 dated 25.03.2022 registered for the offence punishable under Section 420 of the I.P.C.

4. As per the prosecution case, there was a talk for



sale of 01 Katha 01 dhur of house from the complainant worth Rs. 30,00,000/-but fraudulently on the sale deed, value of the house was mentioned only Rs. 22,50,000/- and Shambhu Nath Jha (petitioner no. 1) gave Rs. 10,00,000/- at the time of execution of land and also gave a cheque of Rs. 11,00,000/- which was issued by Amar Nath Jha (petitioner no. 2) and when the complainant deposited the said cheque in the bank for transfer then it was informed by the bank that the account of Amar Nath Jha (petitioner no. 2) has already been closed. When the complainant went to the house of the accused persons for demanding his remaining amount of Rs. 20,00,000/- then the petitioners seek time for payment and lastly they did not give money to the complainant even after notice given by the advocate.

5. Learned counsel for the petitioners has submitted that the petitioners are innocent and have been falsely implicated in this case. It is submitted that if it is accepted that the allegation as alleged in the complaint petition is true, no case under Section 420 of the I.P.C. is made out against the petitioners. It is submitted that admittedly in the year 2016, a Mahadanama was executed by the complainant in favour of the wife of the petitioner no. 1, namely, Babita Kumari and got Rs.



5,00,000/- cash and four different cheques amount of Rs. 1,00,000/-each of the S.B.I. which were credited in the account of the witness of the Mahadanama, namely, Ranjit Kumar. It is further submitted that it is true that on 11.02.2019 the house situated over the Plot No. 856 (old), 302 (new), pertaining to Khata No. 49 (old), Holding No. 1, Jamabandi No. 17 was executed in favour of the petitioner no. 3 by the complainant and the consideration money is validly showing Rs. 22,50,000/- after adjusting the earlier payment amount of Rs. 9,00,000/- (Rs. 5,00,000/- cash and Rs. 4,00,000/- paid through four cheques). It is further submitted that as far as part payment of consideration money Rs. 11,00,000/- is concerned, if it is not credited in the account of the complainant then the petitioners are ready to pay that amount to the complainant through cheque/bank draft/RTGS. Learned counsel for the petitioners by filing a supplementary affidavit has further submitted that the wife of the petitioner no. 1, namely, Babita Kumari, has already paid Rs. 2,00,000/- (Rupees Two Lacs) as Ist instalment through R.T.G.S. in the account of the informant (Hari Om Prasad Soni) bearing A/C No. 38220961406 which will be apparent from bare perusal of the transaction of the pass book of the wife of the petitioner no. 1 and rest Rs. 9,50,000/- (Rupees Nine Lacs and



Fifty Thousand Only) shall be paid in the account of the informant (Hari Om Prasad Soni) through R.T.G.S. on or before 7th April, 2024 in different instalments and the same was also accepted by the learned counsel for the informant as stated in paragraph nos. 2, 3 and 4 of the supplementary affidavit filed on behalf of the petitioners. The petitioners have clean antecedent as stated in paragraph no. 3 of the bail application.

6. Learned A.P.P. for the State and learned counsel for the informant have supported the facts mentioned in the said supplementary affidavit.

7. Considering the aforesaid facts and circumstances of the case and the fact that the petitioners undertake in their supplementary affidavit that the rest amount of Rs. 9,50,000/- (Rupees Nine Lacs and Fifty Thousand) will be paid on or before 7th April, 2024, let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-Ist Class, Dalsingsarai, Samastipur, in connection with Complaint Case No. 92 of 2022, subject to the condition as laid down under Section 438(2) of the Code of Criminal



Procedure with further conditions:-

(I) The petitioners are directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable cause, the prosecution will be at liberty to move for cancellation of their bail bonds.

II. The petitioners are directed to pay all settled amount to the complainant within the stipulated period, failing which, the court below will be at liberty to cancel the bail bonds of the petitioners.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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