

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62379 of 2024

Arising Out of PS. Case No.-222 Year-2023 Thana- DIGHA District- Patna

1. Arun Kumar Singh Son of Late Ram Nath Singh R/o Mohalla- Lakshmi Haritage Compous (Complex)Anand Puri, Phulwari, West Boring Canal Road, P.S.- Shree Krishna Puri, Dist.- Patna
2. Uday Kumar Son of Late Ram Nath Singh R/o Mohalla- Lakshmi Haritage Compous (Complex)Anand Puri, Phulwari, West Boring Canal Road, P.S.- Shree Krishna Puri, Dist.- Patna

... .. Petitioner/s

Versus

The State of Bihar Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr.Ramji Kumar, Advocate

For the Opposite Party/s : Dr. (Mrs.) Indihar Kumari

For the O.P. 2 : Mr. Rajesh Ranjan, Advocate

CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 25-10-2024 1. Heard the parties.

2. The petitioners apprehend their arrest in connection with Digha P.S. Case No. 222 of 2023 dated 26.03.2023 registered under Sections 406, 420, 504, 506 / 34 of the I.P.C.

3. As per the F.I.R. the informant was in need of a plot for construction of his house. The informant was looking for a plot in the area near Atal Path. In the meanwhile, one Aman Kishor Singh, father- Chandra Kishor Singh contacted the informant and told that he has a firm in the name and style of Balaji Real Estate and its office is located at Sache Singh Complex No. 11,



Rajiv Nagar. He offered to purchase the land through him. The said Aman Kishor Singh also assured that he has a very good plot available in Mohalla Indrapuri, Road No. 03, opposite Atal Path, which he would get from the land owner at a reasonable price. He told that an agreement has been entered with the land owner for Khata No. 774, Khesra No. 1132, Mauza – Mainpur Indrapuri Road No. 03 for the said plot. The co-accused Aman Kishor Singh quoted the price of the plot at the rate of Rs. 1 crore and 35 lakh per katha. Believing the words of the broker- Aman Kishor Singh, on 07.07.2022 the informant paid a sum of Rs. 11 lakh through cheque, Rs. 30 lakh through cheque, again Rs. 20 lakh through cheque and thereafter Rs. 25 lakh was paid in cash on 10.07.2022, Rs. 13 lakh 50 thousand in cash was paid on 11.07.2022, Rs. 5 lakh was paid in cash on 19.08.2022 and Rs. 5 lakh was paid in cash on 22.08.2022 in proof of which the acknowledgment was given by Aman Kishor Singh in the back side of the agreement. On instruction of Aman Kishor Singh and the petitioners the informant paid Rs. 10 lakh to Vishal Kumar through cheque, Rs. 10 lakh to Arvind Singh through cheque and further Rs. 25 lakh + Rs. 25 lakh total Rs. 50 lakh were transferred online in the account of Aman Kishor Singh. In this process the informant paid a total sum of Rs. 01 crore 30 lakh to



Aman Kishore Singh, Vishal Kumar and Arvind Singh. It has further been alleged that the petitioners entered into another agreement with the informant and his wife on 31.07.2022 to sell 06 decimal of land in the plot in question for a consideration amount of Rs. 1 crore and 35 lakh, out of which the informant gave Rs. 10 lakh through cheque to Uday Kumar (petitioner no. 2) and paid Rs. 25 lakh through demand draft to the petitioner no. 1. For the balance amount the informant took a loan from the HDFC bank. The informant has also deposited registration fee in the District Registration Office on 19.10.2022 amounting to Rs. 14,31,050/-. The petitioners and other accused persons refused to register the land in favour of the informant.

4. Learned counsel for the petitioners submits that the petitioner no. 1 has died during the pendency of this application. Insofar as the allegation is concerned, learned counsel submits that petitioners have no concern with the agreement for sale entered into between the informant and the co-accused Aman Kishor Singh. A separate agreement for sale was executed between the petitioners and the informant on 31.07.2022 for sale of 06 decimals of land out of which the petitioner no. 2 has received Rs. 10 lakh and the petitioner no. 1 has received Rs. 25 lakh. The amount as alleged paid by the informant to the



co-accused Aman Kishor Singh was not received at any point of time by the petitioners. The petitioner no. 2 is ready to refund Rs. 35 lakh in favour of the informant by way of bank draft which shall be deposited in the concerned court.

5. On the other hand, Mr. Rajesh Ranjan, learned counsel for the informant vehemently opposed the prayer for bail and submits that the informant is a doctor and he was given the impression that the co-accused Aman Kishor Singh was appointed as a broker by the petitioners for sale of the land in question and having that impression and the fact that signature of Aman Kishor Singh is there as a witness in the agreement for sale executed between the petitioners and the informant on 31.07.2022, the informant believing the fact that Aman Kishor Singh is a broker of the petitioners paid a huge sum of Rs. 01 crore and 30 lakh to him and other two brokers. Thereby, the informant has paid altogether Rs. 01 crore and 65 lakh for the land in question, but the same has not been registered in his favour. The informant is ready to pay a sum of Rs. 01 crore to the petitioners for the subject land.

6. In reply, learned counsel for the petitioners submits that total area of the plot of the petitioners was 24 decimal of which 06 decimal was also a part and has been sold by the petitioners



in favour of some other persons. The petitioner no. 2 is ready to refund Rs. 35 lakh received by him as well as the petitioner no. 1, who has already died.

7. Having regard to the submission made by the parties, taking into consideration the nature of allegation and the fact that the petitioner no. 1 has died, the informant entered into a separate agreement with the petitioners for purchase of the said land and paid Rs. 35 lakh which the petitioners are ready to refund in favour of the informant and further the allegation gives rise to civil dispute, I am inclined to grant anticipatory bail to the petitioner no. 2 subject to the condition that the petitioner no. 2 shall deposit Rs. 35 lakh in the concerned court which shall be subject to the final outcome of the case. The concerned court is directed to keep the money deposited by the petitioner no. 2 in interest bearing instrument of any schedule bank.

8. The petitioner no. 1 has already died during pendency of this application. As such, this application is dismissed as having become infructuous with respect to the petitioner no. 1.

9. Accordingly, let the petitioner no. 2, above named, be released on anticipatory bail in the event of arrest or surrender before the court below within a period of four weeks from today



on furnishing bail bond of Rs. 10,000/- (rupees ten thousand) with two sureties of the like amount each to the satisfaction of ACJM 13, Patna in connection with Digha P.S. Case No. 222 of 2023 subject to the condition as laid down under Section 438 (2) of the Cr.P.C.

(Anil Kumar Sinha, J)

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