

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70778 of 2023

Arising Out of PS. Case No.-1 Year-2022 Thana- KOTWALI District- Patna

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1. Nalini Singh Wife Of Dinesh Chandra Singh Director Of Ms Vasundhra Homes Pvt Ltd 303 Adharshila Complex, South Ganjdhi Maidan, Ps Gandhi Maidan District Patna. At Present Resident Of House No. 110, Vista Villa, Opposite Cyber Park, Sector 46, Gurugaon, Haryana
 2. Arvind Kumar Singh Son Of Late Bikrama Singh General Manager Of Ms Vasundhra Homes Pvt Ltd 303 Adharshila Complex, South Ganjdhi Maidan, Ps Gandhi Maidan District Patna. At Present Resident Of Dew 303 Lush County, Friends Colony, Road No. 4 Near St. Marry School Of Ashiyana Nagar, Police Station - Phulwarisharif, Distt - Patna

... .. Petitioner/s

Versus

1. The State of Bihar
2. Madhavi Singh Wife of Sanjeev Ranjan Kumar Singh Ambiance Park Residential Complex, Sisodiya Complex, East Boring Canal Road, P.S. - Kotwali, Distt. - Patna

... .. Opposite Party/s

Appearance :

For the Petitioner/s :	Mr. Santosh Kumar Pandey
For the Opposite Party/s :	Mr. Dr.Mrityunjaya Kr.Gautam
	Mr. Vijay Kumar Sinha

CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH
ORAL ORDER

7 10-07-2024 Heard learned counsel for the petitioners, learned

A.P.P. for the State and learned counsel for the opposite party

no. 2.

2. The petitioners apprehend their arrest in a case

registered for the offence under Sections 386, 387, 406, 420,

467, 468, 469/34 of the Indian Penal Code.

3. The prosecution case is as follows:-

“ O.P. No. 2 Madhavi Singh lodged a written
complaint before Chief Judicial Magistrate, Patna which
was numbered as Complaint Case No. 7048(C) of 2021
on 27.11.2021 with regard to an occurrence dated



03.09.2021 which was sent to Kotwali police for registering a case under Section 156(3) of the Cr.P.C. alleging therein, that M/s Vasundhra Homes Pvt. Ltd. is a company engaged in construction of multi storied building and petitioner no. 1 is Director, whereas petitioner no. 2 is Manager of the company and complainant's husband is land owner of 27 katha of land, i.e., 36750 sq. feet land at East Boring Canal Road, Patna and development agreement was made between Usha Rani Sinha, Rajeev Ranjan Kumar Singh, Sanjeev Ranjan Kumar Singh and Vasundhra Homes Pvt. Ltd., a company under the Company Act for construction of multi storied building at the landed house of complainant's husband within three years from the date of agreement. As per the development agreement developer has to develop and construct multi storied commercial and residential building on the said property of the land owner at is own cost when some pucca construction was existing which are shops and foundation of the said construction was strength enough to withstand a multi storied building. The developers agreed to allow the construction to remain and the shop to continue with its total possession to continue exclusively with the owner and the developers agreed to take advantage of the foundation of the structure to raise its height by constructing multiplier floor over it as per revised sanction plan and the land owner had taken loan from Punjab National Bank for construction of said market complex on the property standing in the name of Usha Rani Sinha and the said plot was mortgaged and the other plots standing in the name of other co-sharers who were placed as collateral security and to make whole property free from encumbrances the developers agreed to liquidate the outstanding loan with the banker and the amount so involved shall be deemed as an outstanding loan with the owner and the owners agreed to pay the developers along with an interest equal to the charge by the banker in fixed deposit which shall vary time to time before handing over the entire share complete in all respects to the owners by the developers. As the agreement developers shall construct the building as per plan approved by the PRDA. The detailed terms and conditions were described in the development agreement.



It was agreed that the owners shall have 48% in the commercial building and 43% shares in the residential building. It is alleged that Ram Subhag Singh demanded the sanctioned map from the Patna Municipal Corporation by RTI but it was replied that no map was there. The developers have also not given the map. It is further alleged that when the building was not completed within time, thereafter a committee was constituted vide letter No. 245(c) dated 22.08.2012 issued by Sri Avinash Kumar Singh, the Executive Engineer, Nutan Rajdhani and physical verification of Sisodiya palace (commercial) and Ambiance Park (residential). Several irregularities not identical with the sanctioned map was found with respect to boundary wall and height of the building. In the revised map the height was mentioned as 23 meter, but the actual height was 25.72 meter. A community hall against the sanctioned map was also found. It is further alleged that the builder/developer have made certain forged signatures of the parties over the sanctioned map. It is alleged that the Commissioner, Patna Municipal Corporation declared all the deficiency as illegal and directed the builder to demolish all illegal construction within 30 days and directed the South Bihar Power Distribution Company Ltd. to disconnect electric energy within 7 days. It is further alleged that the builder has not given the shares of the land owners. The complainant further alleged that as per the agreement the complainant and her family members were the shareholder and one Raj Kumari Devi who had no land in 27 katha land but the builder has given shares in 27 kathas. It is further alleged that the builder has also given only 7.5 lacs in place of 15 lacs as none refundable money to the land owners. The complainant further alleged that the builder has prepared some forged papers and file appeal before the Municipal Building Division, Patna against the order dated 05.08.2014. The complainant further stated in her complaint petition that Mr. Arvind Kumar Singh has filed Appeal No. 83 of 2014 and a document was attached for obtaining the occupancy and completion certificate of Case No. PRN/6-262/02 from the Town Commissioner, Patna Regional Development Officer dated 13.02.2008 in which the owner Smt. Usha Rani Sinha was falsely made. The complainant has also alleged that the builder



has prepared a paper regarding the distribution of offices between the land owner and developers having forged signatures of Sanjeev Ranjan Kumar Singh. It is alleged that on 03.09.2021 at about 11.30 A.M. the accused persons named in the complaint petition came at the 4th floor of Sisodiya Palace with 12-15 persons holding with arms with intention to commit dacoity and to kill the complainant and her family members. The pointed pistol to one Sarvan Kumar, Security Guard, snatched his mobile phone and directed the unknown persons to kill the complainant and her husband. They started to broke the lock of the godown. Soon the shopkeepers gathered and thereafter, the complainant reached there and caught the person who was breaking the lock. Policemen of Kotwali Police Station was called and the person who was caught there was handed over to the police. Other accused fled away from there. Later, the Kotwali police did not lodge the FIR under the influence of the accused persons. The complainant gave a written petition on 17.11.2021 for lodging FIR but no action was taken. Thereafter, the complainant filed the present complaint with a prayer to sand the same to police station to lodge FIR.”

4. Learned counsel for the petitioners submits that from bare perusal of the complaint petition, it appears that the dispute is arising out of contractual transaction. Petitioners are Director and General Manager respectively of the Company, whereas complainant's husband is land owner. A civil dispute between the parties has been given a colour of criminal offence. None of the acts allegedly committed by the petitioners would give rise to any criminal liability. At best, it is a case of civil dispute. Petitioners claim clean antecedent.

5. By referring to different paragraphs of the counter



affidavit, learned counsel for opposite party no. 2 vehemently opposes the prayer for anticipatory bail. He submits that the multi storied building was to be completed within 36 months but the builders have not completed the multi storied building as per development agreement and it was not fully constructed as per sanction map plane and the deviation was made by the accused persons intentionally and without handing the complete constructed share to the complainant's husband sold the builders share to other person and when the physical verification was made by Patna Municipal Corporation and the order was passed by the Commissioner, Patna Municipal Corporation Patna for demolition of illegal construction, then the accused persons filed an appeal before the Municipal Building Division, Patna after forging the signature of the complainant's husband and her mother in law Usha Rani with intention to cheat the complainant and her family members to usurp the property of the complainant and to misguide the court and so all the accused persons are liable for the offence under Sections 386, 387, 406, 420, 467, 468, 469, 34 I.P.C. and both the accused persons namely Nalini Singh and Arvind Kumar Singh are not entitled for anticipatory bail and hence, the prayer for bail is fit to be rejected.



6. However, considering the fact that dispute is purely of a civil nature and no criminal offence is made out against these petitioners, the prayer for anticipatory bail of petitioners is allowed.

7. Let the above named petitioners, in the event of their arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bonds of Rs. 10,000/- (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Patna in connection with Kotwali P.S. Case No. 01 of 2022, subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure.

(Prabhat Kumar Singh, J)

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