

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.71870 of 2023

Arising Out of PS. Case No.-930 Year-2022 Thana- ROHTAS COMPLAINT CASE District-
Rohtas

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1. Manoj Sah, Male, aged about 41 years, Son of Late Jagdish Sah Proprietor Maa Santoshi Galla Bhandar, Bishunpura R/O Village- Bishunpura, P.S.- Nokha, Distict- Rohtas
 2. Dharmendra Prasad Gupta @ Dharmendra Sah, male, aged about 46 years, Son Of Late Jagdish Sah R/O Village- Bishunpura, P.S.- Nokha, District- Rohtas

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Raj Kumar Sah Son of Kapil Sah R/O Village- Lewada, P.S.- Nokha, District- Rohtas.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Dhaneshwar Prasad Gupta, Advocate.
For the Opposite Party/s	:	Mr. Md. Ataur Rahman, A.P.P.
For the Complainant	:	Mr. Rajanikant Singh, Advocate.

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

2 08-01-2024 Learned counsel for the petitioners is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

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

3. The petitioners are apprehending their arrest in connection with Complaint Case No. 930 of 2022 dated 22.09.2022 registered for the offence punishable u/s 406 of the Indian Penal Code.



4. As per the prosecution case, the complainant sold the paddy to the petitioners on the different dated i.e. on 06.02.2020, 08.02.2020, 15.02.2020, 28.11.2021 and 19.09.2022. The petitioner no.2 namely, Dharmendra Sah as representative of the accused petitioner no.1 purchased the paddy from complainant and gave same money as consideration amount but Rs. 2,62,000/- (Rupees Two Lakh Sixty Two Thousand) was due to be paid, for this petitioner no.1 namely, Manoj Sah has issued the cheque of Rs. 50,000/- (Rupees Fifty Thousand) in the name of the complainant's brother on 13.02.2021, which was also bounced.

5. Learned counsel for the petitioners has submitted that the petitioners have falsely been implicated in this case. It is further submitted that the petitioners are bothers and they are running the Maa Santoshi Galla Bhandar in which they purchases and sell the paddy and wheat. Learned counsel has further submitted that the petitioners have purchased the paddy from the complainant on different dates of Rs. 2,62,000/- (Rupees Two Lakh Sixty Two Thousand) and they have paid the total amount of Rs.



2,12,000/- (Rupees Two Lakh Twelve Thousand) to the complainant out of Rs. 2,62,000/- (Rupees Two Lakh Sixty Two Thousand) on different dates. It is further submitted that the petitioners have to pay only Rs. 50,000/- (Rupees Fifty Thousand) to the complainant but due to some personal difficulties, they have not paid the same. They are ready to pay the remaining due of amount of Rs. 50,000/- (Rupees Fifty Thousand) to the complainant. Learned counsel for the petitioners placed reliance on the judgment in the case of **Bimla Tiwari Vs. State of Bihar and others (Special Leave Petition (CRL.) Nos. 834-835 of 2023)** at para 10, the Hon'ble Apex Court has held that "*we would reiterate that the process of criminal law cannot be utilized for arm-twisting and money recovery, particularly while opposing the prayer for bail.*" The petitioner no.1 has three criminal antecedents whereas petitioner no.2 has one criminal antecedent as stated in para 3 of the bail petition.

6. Learned A.P.P. for the State has vehemently opposed the prayer of anticipatory bail of the petitioners.

7. Considering the aforesaid facts and circumstances of the case, 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/- (Rupees Twenty thousand) each with two sureties of the like amount each to the satisfaction of learned Court concerned, Sasaram, Rohtas in connection with Complaint Case No. 930 of 2022, subject to conditions as laid down under Section 438(2) of the Code of Criminal Procedure, with further condition:-

(i) The petitioner is 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 bail bond of the petitioner is liable to be cancelled.

8. This application stands allowed.

(Chandra Prakash Singh, J)

Nilmani/-

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