

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.74326 of 2023

Arising Out of PS. Case No.-133 Year-2023 Thana- EAST CHAMPARAN COMPLAINT
District- East Champaran

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1. Noorjahan Khatoon, Wife Of Husain Ahmad R/O Village- Korihar, P.S.- Raxaul, Dist.- East Champaran At Motihari
 2. Husain Ahmad, Son Of Abdul Gani R/O Village- Korihar, P.S.- Raxaul, Dist.- East Champaran At Motihari

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Shamim Akhtar Son Of Late Md. Ibrahim R/O Village- Sugauli, Premnagar, P.S.- Sugauli, Dist.- East Champaran At Motihari

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shashank Shekhar
For the Opposite Party/s	:	Dr. Mrityunjaya Kr. Gautam
		Mr. Aditya Nath Jha

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

4 01-04-2024 1. Heard learned counsel for the petitioners, learned counsel for the opposite party no.2 and learned APP for the State.

2. The petitioners seek bail in anticipation of their arrest in a case registered for the offences punishable under Sections 406, 420, 467, 468, 471 and 504 of the Indian Penal Code, but summons were issued under Sections 406, 417 and 506 of the I.P.C.

3. The learned counsel for the petitioners submits that the petitioners are persons with clean antecedent and have been falsely implicated in the instant case by the complainant. It is



further submitted that from bare perusal of the allegation as alleged in the complaint, it would manifest that a purely civil dispute has been given a criminal colour. It is next submitted that the complainant alleges that the petitioners agreed to sell a piece of land as described in the complaint petition for an amount of Rs.78,40,000/- of which, the complainant and her partner paid an amount of Rs.25 Lacs and thereafter, the petitioner no.1 executed sale deed of land ad-measuring 16.53 decimal pertaining to Khesra no.1589 in favour of Ehsan Ahmad and promised to transfer the land of Khesra No.1590 to the complainant, Iftekar Ahmad and Abid Hussain, but then, the complainant came to know that the land of Khesra No.1590 has already been sold to some other persons and thus, alleges that neither the sale deed was executed with respect to the land in question, nor the amount of Rs.6,25,000/- was returned as land with respect Rs.18,75,000/- was already executed.

4. The learned counsel for the petitioners submits that in sum and substance, the present complaint case has been instituted for recovering an amount of Rs.6,25,000/- which the complainant alleges remains due with the petitioners as they did not execute the sale deed with respect to the land pertaining to Khesra No.1590. It is further submitted that the deal was for



Rs.78,40,000/-, out of which, only Rs.25 Lacs was paid and the petitioners executed sale deed with respect to a piece of land for the said consideration and if the complainant is aggrieved in that event, he had remedy of approaching a Court of competent civil jurisdiction for getting the agreement entered in between the petitioners and the opposite party no.2 complied with. It is thus submitted that at best, even presuming what has been alleged is true, then the case is purely civil in nature and arises from a contractual dispute.

5. Learned A.P.P. along with learned counsel appearing on behalf of the opposite party no.2 opposes the anticipatory bail, but are not in a position to rebut the submission of the learned counsel for the petitioners that the dispute is civil to which a criminal colour has been given.

6. Considering the submissions made by the learned counsel for the petitioners, the petitioners, above-named, in the event of their arrest or surrender before the learned Court below within a period of six weeks, are directed to be released on bail on their furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of Sri Saba Shakeel, the learned Judicial Magistrate, 1st Class, Motihari, East Champaran in



connection with Complaint Case No.133 of 2023, Trial No.2333
of 2023, subject to the conditions laid down under Section
438(2) of the Cr.P.C.

7. The application stands allowed.

(Satyavrat Verma, J)

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