

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.82863 of 2023

Arising Out of PS. Case No.-4580 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

SATISH KUMAR PATHAK SON OF RADHE SHYAM PATHAK
MANAGING DIRECTOR OF M/ APRAJITA HOUSING PVT. LTD., NEW
PATLIPUTRA COLONY, ROAD NO.3, JAG KAILASH PALACE
APARTMENT, GROUND FLOOR, PCMPS, PATLIPUTRA, DISTRICT-
PATNA

... .. Petitioner/s

Versus

1. The State of Bihar
2. AMIT KUMAR SON OF LATE BAIJ NATH PRASAD GUPTA R/O
MOHALLA- MITRA COMPOUND, NEAR BORING ROAD
CHOURAHA, P.S.- BUDHA COLONY, PATNA - 80000

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Sanjiv Sharan, Advocate Mr. Pankaj Kumar, Advocate.
For the Opposite Party/s	:	Mr. Bharat Bhushan, APP
For the informant	:	Mr. Gautam Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJIV ROY
ORAL ORDER

3 07-03-2024 Heard Mr. Sanjiv Sharan, learned counsel for the

petitioner, Mr. Bharat Bhushan, learned APP and Mr. Gautam

Kumar who represents the complainant.

2. The petitioner is apprehending his arrest in
connection with Complaint Case No. 4580 of 2018 for the
offence under sections 406 and 420 of the I.P.C. lodged on
12.10.2018 by Amit Kumar.

3. The complainant has alleged that pursuant to



development agreement in the year 2011 between his father, late Baijnath Prasad Gupta and M/s Aparjeeta Housing Private Ltd., they went out of the house, got the same demolished and were on a rent of Rs. 26,600/-. However, later, the accused retracted from the said agreement and in the year 2012 after making payment of Rs. 26,60,000/- the agreement was revoked on 9.7.2012.

4. The case of the complainant is that such was the pressure on his late father that he became ill and finally the Doctors detected malignancy. He died in the year 2015 and unable bear it, the complainant's mother also died in the year 2017. In the aforesaid circumstances, in the year 2018, legal notice was sent demanding Rs one crore fifty lakhs which included the rent as also house construction cost and as it was not replied, the complaint.

5. Learned counsel for the petitioner submits that earlier he had an agreement with the late father of the complainant on 8.10.2011. However, later it came to notice that his father is not the only owner of the land rather there are six more brothers who objected to it being developed informing that they too are share holders of the land. Naturally, the petitioner a builder developed cold feet as he did not wanted to



put money on a disputed land.

6. He thereafter contacted the complainant's father and in cordial atmosphere, the cancellation took place on 09.07.2012 whereafter he paid Rs. 26,60,000/-. Learned counsel submits that complainant's father later entered into an agreement deed with another developer immediately thereafter on 12.07.2012 (i.e. within three days of annulment of contract) whereafter, the building was constructed, flats allotted and the complainant and his family members including the late father and late mother started residing in it.

7. Learned counsel submits that much thereafter, in the year 2015 and further in the year, 2017 their parents died. However, the children blamed the said natural death to the petitioner herein demanding Rs. One crore fifty lakhs whereafter this complaint.

8. Learned counsel for the complainant, Mr. Gautam Kumar on the other hand submits that it was only due to mental pressure created by the accused which led to death of both his father and mother and as such, they are/were fully justified in getting compensated and failure to do so, this complaint.

9. This Court has gone through the facts of the case as also the submissions put forward by the learned counsel for the



petitioner and the informant. From the facts on record, it is clear that an agreement signed in the year 2011 got annulled in the year 2012, payments made, the case rests there. The complainant's late father himself being a renowned lawyer having practice of more than four decades was fully competent to act in the matter had there been any criminal angle in the dispute between the parties, the agreement having come to an end on 9.7.2012. Further, according to the case itself, the complainant's father lived up to year 2015, almost three years thereafter and also resided in the flat built by another developer. It is unfortunate that he developed malignancy and subsequently died which followed the death of the mother of the complainant, that however, under no circumstances can be a basis to prefer this complaint against the petitioner herein. In the aforesaid background, this Court is inclined to extend the petitioner the privilege of anticipatory bail.

10. Let the petitioner be released on bail in the event of arrest or surrender within a period of four weeks from the receipt of this order, on furnishing bail bond of Rs. 10,000/- (Ten thousand) each with two sureties of like amount each to the satisfaction of learned J.M. 1st Class, Patna, in connection with Complaint Case No. 4580 of 2018 subject to the conditions as



laid down under Section 438(2) of the Cr.P.C.

11. Nothing recorded in this order shall be taken up in the trial as this has been considered in the particular facts and circumstances and only for grant of anticipatory bail.

(Rajiv Roy, J)

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