IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.50312 of 2024

Arising Out of PS. Case No.-716 Year-2023 Thana- RUPASPUR District- Patna
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Santosh Kumar Bharti @ Santosh Singh Son of Rambarat Singh Resident of Village - Parthoo, Police Station - Pipra, District - Patna.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Ms. Soni Kumari
For the Opposite Party/s : Mr. Ram Naresh Ray

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 10-01-2025

1. Heard learned counsel for the petitioner and learned A.P.P. for the State along with learned counsel appearing on behalf of the informant.

2. The petitioner seeks bail in connection with Rupaspur P.S. Case No.716/2023, registered for the offence punishable under Sections 406, 420, 506, 34 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that dispute is purely civil to which a criminal colour has been given, on which, the learned counsel appearing on behalf of the informant vehemently objects and rebuts the said submission stating that no doubt prima facie in the nature of allegation, it appears that the dispute is civil but when the case would be examined closely it would manifest that element of criminality is involved.

4. Learned counsel for the petitioner submits that one Sunita Devi had purchased land, pertaining to Khata No.162, Khesra No.1155, Area 9 katha at Mauza-Dhanaut, Mahuabagh, District-Patna from Chunnu Kumar vide registered sale deed, further Sunita Devi had given power of attorney in favour of her son Naveen Kumar and Naveen, based on the power of attorney, executed in his favour by his mother, executed two separate sale deed in favour of the informant and her husband with respect to land pertaining to Khata No.162, Khesra No.1155, Area 1 katha 10 dhurs each for a consideration of Rs.1, 50, 00000/- (Rupees One Crore fifty lakhs).

5. The learned counsel for the petitioner next submits that after sometimes, Chunnu Kumar raised a dispute that the land which has been sold by Naveen, based on power of attorney, executed in his favour by his mother is with respect to Khata No.161, which is the land of Chunnu Kumar and he never sold any plot pertaining to Khata No.161 in favour of Sunita Devi. It is thus submitted that even presuming what has been alleged is true without admitting then Sunita Devi and Naveen Kumar committed the fraudulent transaction and the petitioner came to be implicated merely for the reason that petitioner was an identifier on the sale deed, executed by Chunnu Kumar in

favour of Sunita Devi. It is next submitted that two separate F.I.R. came to be instituted with respect to the alleged offence, one by the instant informant and other by her husband, as two separate sale deeds were executed in their favour by Naveen Kumar. The learned counsel for the petitioner next submits that in the F.I.R. instituted by the husband of the informant, Sunita Devi had moved this court seeking anticipatory bail by filing Cr. Misc. No.61228/2024 and the same came to be allowed by an order dated 06.09.2024 by a learned Co-ordinate Bench. It is further submitted that in the instant F.I.R. one Amrish Kumar Singh was also an accused, who had moved this court seeking anticipatory bail by filing Cr. Misc. No.51663/2024 which was allowed by this court by an order dated 28.08.2024. It is next submitted that petitioner in no manner was associated with the sale and purchase of the land in dispute in between Naveen Kumar and the informant and her husband but still the petitioner came to be implicated merely because he was a witness on the sale deed which was executed by Chunnu in favour of Sunita Devi.

6. The learned counsel appearing on behalf of the informant vehemently rebuts the said submission of the learned counsel appearing on behalf of the petitioner and submits that

the case is not as simple as it has been made out to be. It is submitted that no doubt Sunita had purchased land pertaining to Khata No.162, Khesra No.1155, Area 9 katha from Chunnu by a registered sale deed on which petitioner was a witness, as such, the petitioner was aware that as to which land Sunita Devi had purchased from Chunnu Kumar. It is next submitted that based on the power of attorney executed by Sunita Devi in favour of her son Naveen, the informant also purchased 1 katha 10 dhurs of land pertaining to Khata No.162, Khesra No.1155, for a sum of Rs.75 lacs but when the informant went on the land for constructing her boundary when the same was objected by Chunnu on the ground that the land belongs to him when it transpired that the land which Naveen had sold to the informant pertained to Khata No.161, which belonged to Chunnu Kumar and thereafter the informant inquired when it came to her knowledge that the land sold by Naveen was not the same land which Sunita Devi had purchased from Chunnu Kumar, as the boundary of the land was different. It is further submitted that even the mutation application submitted by the informant for getting the land mutated in her name was rejected. It is next submitted that petitioner has been implicated in the instant case not for the reason that he was also a witness on the sale deed executed by Chunnu Kumar in favour of Sunita Devi but for the reason that an amount of Rs.74 lacs was credited in the account of the petitioner which was a joint account either with Naveen or Sunita and has been detailed in the counter affidavit, filed on behalf of the informant. It is thus submitted that the amount of Rs.74 lacs was credited in the joint account of petitioner along with Naveen and Sunita, as such, it cannot be said that petitioner was not involved in the transaction. It is also submitted that petitioner is a land broker and it was he who had convinced the informant for purchasing the land based on which informant and her husband purchased 1 katha and 10 dhurs of land each by two separate registered sale deed and even part of the consideration was credited in the joint account of petitioner along with Naveen and Sunita.

7. The learned counsel appearing on behalf of the informant further submits that the price of the land in the State of Bihar and specially in Patna has sky rocketed as such such fraudulent transactions are being made, where innocent purchaser are being convinced by willy land brokers to enter into deal and thereafter they get cheated as such it is submitted that no doubt prima facie the offence in the nature of allegation, as alleged appears to be civil in nature but when examined

closely, it would manifest that element of criminality is also involved.

8. The learned counsel for the informant further submits that the informant and her husband had also taken a loan of Rs.40 lacs for purchasing the land and the same was credited in the joint account of Santosh along with Naveen Kumar and Sunita Devi, apart from that Rs.35 lacs was also credited in their joint account, as specifically pleaded at Para-9 of the counter affidavit.

9. The learned counsel for the petitioner rebuts the said submission of the learned counsel appearing on behalf of the informant and submits that the reply to the counter affidavit filed on behalf of the informant has been rebutted by way of supplementary affidavit and from perusal of Para-12 of the supplementary affidavit, it would manifest that a specific statement has been given that there is no document of the joint account no.74090100016006 in the counter affidavit that the said account was a joint account of the petitioner along with Sunita and Naveen, on which, learned counsel appearing on behalf of the informant submits that an evasive reply has been given by way of supplementary affidavit, it is submitted that if the same was not a joint account of the petitioner along with

Naveen or Sunita, in that event, a specific denial would have been made in the supplementary affidavit, based on instruction.

10. At this stage, learned counsel for the petitioner submits that petitioner has remained in judicial custody since 24.02.2024, as such, his period of custody be considered for grant of bail, on which, the learned counsel for the informant submits that if privilege of bail is granted to the petitioner, in that event, the petitioner may abscond, as charges till date has not been framed.

11. At this stage, learned counsel for the petitioner seeks permission to withdraw the bail application with liberty to renew his prayer for bail after framing of charge.

12. Permission is accorded.

13. The bail application of the petitioner is dismissed as withdrawn with aforesaid liberty.

(Satyavrat Verma, J)

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