

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.60122 of 2025

Arising Out of PS. Case No.-132 Year-2016 Thana- INDUSTRIAL AREA District- Vaishali

Sudhir Kumar S/O Gaya Prasad Singh Resident of Village/ Mohalkla- Saket,
Bihar, M.M. Colony, Anishabad , P.S- Pulwarisharif, Distt.- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Arun Kumar Arun, Advocate Mr.Rajiv Ranjan, Advocate Mr.Aditya Pushkar, Advocate Mr.Anil Kumar, Advocate Mr.Karam Chand, Advocate
For the State	:	Mr.Aditya Narayan Singh.1, APP
For the Informant	:	Mr.Uma Shankar, Advocate Mr.Prem Kumar, Advocate

CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 16-09-2025 Heard learned counsel for the petitioner, learned
A.P.P. for the State and learned counsel for the Informant.

1. The petitioner apprehends his arrest in a case registered for the offences punishable under Sections 406/420 of the IPC.

2. Learned counsel for the petitioner submits that petitioner is a person with clean antecedent and the informant alleges that the petitioner had entered into a registered development agreement with the informant on 15.01.2013 for constructing an apartment on the land of the informant, as per agreement, the apartment was to be constructed with first class



materials, after getting the soil testing done and as per map, plan passed by Nagar Parishad, Hajipur and the owner part was to be built as per conditions mentioned in Schedule no.02 and 03 of the agreement, but petitioner violated and cheated in every condition mentioned in the development agreement and constructed a weak apartment with poor quality material.

3. Learned counsel for the petitioner submits that petitioner has been falsely implicated in the instant case by the informant and from bare perusal of the allegation as alleged in the F.I.R., it would manifest that a purely civil dispute has been given a criminal colour. It is next submitted that what is not in dispute rather stands admitted is that petitioner and informant entered into a development agreement for constructing an apartment on the land of the informant. In the event if, the petitioner breached any conditions of the development agreement, in that event, informant had an appropriate remedy before an appropriate forum to seek redressal of his grievance, but filing of a criminal case was uncalled for. It is next submitted that police during the course of investigation had given notice under section 41(1) of the Cr.P.C. to the petitioner and the petitioner co-operated with the police during the course of investigation and the police never felt the need of arresting



the petitioner but then a charge-sheet came to be submitted. It is next submitted that the learned trial court based on the charge-sheet took cognizance and thereafter summons, bailable warrant, non-bailable warrant and process under section 82 and 83 Cr.P.C. were issued. It is submitted that the entire order-sheet of the learned trial court has been annexed with the anticipatory bail application and from perusal of the same, it would manifest that petitioner never received the summons, bailable warrants, non-bailable warrants nor was aware that process under sections 82 and 83 Cr.P.C. has been issued. It was only when the police knocked the door of the petitioner, the petitioner came to know that the process under section 82 and 83 Cr.P.C. has also been issued. It is next submitted that no doubt a person is not entitled for anticipatory bail against whom process under section 82 and 83 Cr.P.C. is issued but then the instant case is different for the reason that from perusal of the order-sheet of the learned trial court, it would manifest that petitioner was never served summons, bailable warrants or non-bailable warrants, as the trial court order does not read that summons, bailable warrant and non-bailable warrant was served on the petitioner, as such, the petitioner was not even aware that police after completing the investigation, submitted charge-sheet based on which,



cognizance came to be taken. Learned counsel for the petitioner asserts and submits that in the nature of allegation as alleged in the F.I.R., it would manifest that the instant F.I.R. was instituted only to coerce the petitioner into submission under fear of arrest, so that he fulfills the fanciful demands of the informant in breach of the conditions of the development agreement. It is also submitted that if the petitioner has breached any condition of the development agreement, in that event, the informant ought to have moved either for arbitration or before an appropriate forum bringing to its notice that petitioner has not adhered to the terms and conditions of the development agreement. It is also submitted that the informant has filed Title Suit No.1180 of 2016, which is pending adjudication in the court of learned Sub Judge-XVI, Hajipur, Vaishali. It is submitted that in the event, if the informant loses the Title suit and the petitioner in the instant case is sent to jail, whether or not, it would amount to travesty of justice. It is also submitted that in the event, if the informant succeeds in the Title suit, the relief claimed for, shall be granted.

4. Learned A.P.P. and the learned counsel appearing on behalf of the informant opposes the bail application but then are not in a position to revert the submission of the learned



counsel appearing on behalf of the petitioner that from perusal of the order-sheet of the trial court annexed with the anticipatory bail application, it manifests that petitioner was never served with summon, bailable warrants or non-bailable warrants.

5. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned trial court within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Industrial Area (Audyogik Kshetra) P.S. Case No.132 of 2016, subject to the conditions as laid down under Section 482 (2) of BNSS.

6. **Accordingly, the instant anticipatory bail application stands allowed.**

(Satyavrat Verma, J)

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