

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.75317 of 2024

Arising Out of PS. Case No.-2627 Year-2023 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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1. Sheikh Manirul Haque @ Sk. Manirul Haque S/O Late Wasir Alam R/O Beldari, P.S- Bettiah Muffasil, Distt.- West Champaran.
 2. Md. Khuram S/O Sheikh Manirul Haque R/O Village- Beldari, P.S- Bettiah Muffasil, Distt.- West Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Hitesh Kumar S/O Ramayan Prasad R/O Village- Machhargawa, P.S- Yogapatti, Distt.- West Champaran.

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr.Bimlesh Kumar Pandey, Advocate
For the State	:	Mr.Vinod Shanker Modi, APP
For the O.P. No.2	:	Mr. Sanjeev Kumar, Advocate

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

3 17-04-2025 Heard learned counsel for the petitioners, learned APP for the State and learned counsel for the opposite party no.2-complainant.

2. The petitioners apprehend their arrest in connection with Trial No.3378 of 2024 arising out of Complaint Case No.2627 of 2023 registered for the offences punishable under Sections 406, 420, 467, 468, 471 and 384/34 of the Indian Penal Code. However, cognizance in the case has been taken only under Sections 420, 406, 467 and 468 of the Indian Penal Code.



3. The allegation made in the complaint is that on account of an agreement to purchase the land arrived at between the complainant and the petitioner no.1, the total price of which was fixed as Rs. 2,91,81,400/-, the complainant advanced a total of Rs.1,99,39,00/- by cash and through bank transfer for registering the land but the same was not done by the petitioner no.1 and the other accused persons.

4. Learned counsel for the petitioners submits that the allegations made in the FIR are totally false and the agreement, which has been annexed as Annexure-3 to the present application, would indicate that the relevant entries with regard to advance is missing in the said agreement and subsequently on the strength of another agreement, which has been annexed in the counter affidavit as Annexure-R/1, the manipulations have been made and the petitioners have been made accused in the present case.

5. Learned counsel for the petitioners further submits that the complainant is a government teacher and, hence her claim of paying an amount to the tune of Rs.1,20,00,000/- by cash which has been admitted specifically in the solemn affirmation of the complainant seems to be totally not believable and is also not supported by any evidence. It has been further



submitted that so far as the amount which has been alleged to be transferred in the bank account, it is stated that the complaint itself indicates that the transactions have been made in the account of Sufia, who happens to be the wife of petitioner no.2. However, it has been submitted, at this stage, that Sufia has not been made an accused and petitioner no.2 is having bitter relations with said Sufia and Sufia's brother is rather a friend of the present complainant.

6. It has also been submitted by the learned counsel for the petitioners that the complainant is basically a land broker who has trapped the petitioner no.1 who is an old aged person and the matter completely arises out of a civil dispute for which a competent court of civil jurisdiction should have been approached. In the case of **Bimla Tiwary Vs. State of Bihar in SLP (Crl.) 834-835/2023**, the practice of twisting the arms in order to realize money by lodging criminal cases has been deprecated.

7. The application has been opposed by learned APP for the State and learned counsel for the complainant-opposite party no.2.

8. Learned counsel for the complainant-opposite party no.2 draws the attention of this Court to the counter affidavit



filed on behalf of the opposite party no.2 whereby he has brought on record the agreement by way of Annexure-R/1 which he states to be the genuine agreement bearing the signature of all the parties. It has also been stated in the counter affidavit that the opposite party no.2 despite being a school teacher has secured loan of Rs.9,96,000/- and Rs.17,14,281/- from his department for making payment to the petitioners' side.

9. Considering the rival contentions of the parties, it would appear that the opposite party no.2 has taken a loan of only few lacs from his department being a school teacher whereas the payment in cash is said to be to the tune of Rs. 1,20,00,000/- which cannot be explained in the present facts of the case. It has also been considered by this Court that the bank transactions have been made in the account of one Sufia which has not been made an accused in the present case and the petitioner no.2 has been made an accused on account of the fact that he is the husband of Sufia.

10. Taking into consideration all the these facts and circumstances and also considering the fact that the matter arises out of a civil dispute with regard to the transactions of money and also taking into consideration that the petitioner no.1 is a senior citizen of more than 70 years of age and there is no



direct allegation against the petitioner no.2, I am inclined to extend the privilege of anticipatory bail to the petitioners. Let the petitioners above named be released on bail, in the event of their arrest or surrender before the learned Court below within a period of four weeks from today, on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) each with two sureties of the like amount each to the satisfaction of Sri Manish Chandra, learned J.M.-1st Class, Bettiah, West Champaran in connection with Trial No.3378 of 2024 arising out of Complaint Case No.2627 of 2023, subject to the condition as laid down under Section 438 (2) of the Cr.P.C. and subject to the further condition that the petitioners shall cooperate in the investigation/trial.

(Soni Shrivastava, J)

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