IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.76177 of 2023

Arising Out of PS. Case No.-931 Year-2022 Thana- COMPLAINT CASE District- Jamui

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1. Nawal Kishor Singh Son Of Late Ambika Singh Resident Of Village- Lalpur, P.S.- Khaira, Distt.- Jamui
2. Vikky Kumar @ Vikky Singh Son Of Nawal Kishor Singh Resident Of Village- Lalpur, P.S.- Khaira, Distt.- Jamui

... ... Petitioner/s

Versus

1. The State of Bihar
2. Nand Kishor Singh S/O Late Suresh Chandra Singh Resident Of Village- Baghakhad, P.S.- Khaira, Dist.- Jamui

... ... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Pd. Singh, Sr.Adv.
Mr. Satyam Shivam Sundaram

For the Opposite Party/s : Mr.Uday Pratap Singh, APP
Mr. Sanjay Kumar Mishra, Adv.
Mr. Ashok Kumar, Adv.

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR SINGH

ORAL ORDER

8 05-02-2025 Heard learned counsel for the petitioners, learned A.P.P. for the State and learned counsel for complainant/ opposite party no. 2.

2. The petitioners apprehend their arrest in a complaint case punishable for the offence under Sections 323, 420, 504 of the Indian Penal Code.

3. As per complaint case, the complainant and accused persons are neighbours and the accused persons under a criminal conspiracy proposed to establish an industry of fly ash bricks and requested the complainant to arrange the fund. The

accused persons further proposed to operate the business and to give Rs. one lakh per month to the complainant from the fly ash bricks business. A partnership deed was prepared and both the parties started to arrange 50% capital and at the time of sanction of loan under a criminal conspiracy the bank manager stated that loan can only be granted to accused persons. The land for the industry was taken on lease by both parties on 17.02.2017 and again a partnership deed was prepared on 04.01.2018. On 21.08.2017 the complainant transferred Rs. five lakh in the account of petitioner no. 1 (Nawal Kishor Singh) and for the rest capital he transferred his landed property (area 40 decimals) in favour of accused and the present value of the land is about Rs. fifty lakh. Again the complainant provided Rs. five lakh cash to the accused persons for construction work and the plant started. Due to non selling of the bricks the works got closed and again the accused persons induced the complainant and the complainant paid Rs. one lakh through check on 10.05.2018 and again Rs. Three Lakh on 18.05.2018 to the accused persons for cement and payment to labourers. The accused persons also took Rs. five lakh cash from the land owner. The business started and bricks and paver blocks were sold in large quantity by the accused persons. When the complainant demanded his share of dividend repeatedly, the accused persons gave a check of Rs. Two Lakhs. The accused persons were working under a conspiracy that the loan was taken on plant and the dividend will go in their pocket. On 17.06.2022 the complainant and his brother asked for accounts of the industry and demanded dividend, then the accused persons threatened them to kill and they refused to give the share of dividend to the complainant. The complainant realized that accused persons had intention of cheating from the beginning and under a criminal conspiracy they cheated the complainant and grabbed the land and money of the complainant with dishonest intention. The accused persons also took money from several persons in the name of plant.

4. Learned counsel for the petitioners submits that complainant has not stated true facts, rather he prepared a concocted story in order to settle his personal score with petitioners. It is stated that the petitioner no.1 got registration for M.S.M.E. Loan dated 18.08.217 and thereafter a Term Loan of Rs. 34,72000/- and cash credit Loan (H) of Rs. 15,00000/- has been sanctioned in the name of M/s Soni enterprises proprietor Nawal Kishor Singh (petitioner no.1). A communication to this effect was issued by the Punjab National Bank under the

signature of Senior Manager. enterprises proprietor Nawal Kishor Singh (Petitioner No.1). A communication to this effect was issued by the Punjab National Bank under the signature of Senior Manager. Petitioner No.1 thereafter, entered into a lease agreement dated 23.02.2017 with some other persons whereby an area of 66 decimals land was taken on lease for the purpose of establishment of business. Petitioner, thereafter, purchased the necessary equipment/ machine for the establishment of industry of fly ash bricks , for which, invoice dated 13.11.2017 amount to Rs. 33,29,960/- has been issued in the name of petitioner no. 1. Learned counsel for the petitioners further submits that thereafter, petitioner no. 1 got the electricity connection by way of agreement dated 23.01.2018 from South Bihar Power Distribution Co. Ltd. and also got GST registration, as a proprietor of M/s Soni Enterprises, vide registration certificate dated 10.04.2018, and also obtained pollution certificate from Bihar State Pollution Control Board on 22.05.2022 for the aforesaid industry of fly ash bricks. He next submits that 40 decimals land, which was purchased from the complainant, vide registered sale-deed dated 16.06.2017, has no connection with the aforesaid industry, rather the same was an independent transaction made in the year 2017 after making full payment, which is evident from the registered sale-deed dated 16.06.2017 that entire consideration money of the property in question has already been received by the complainant from the petitioner before execution of the said registered deed. Thus, entire complaint case is false and concocted. He further submits that it is true that petitioner no.1 has taken an amount of Rs. 9 lakhs through the different transactions from the complainant and out of said money, he has already returned back Rs. 4 lakhs to the complainant through the cheques of Indian Bank, vide cheque No.214016 dated 21.02.2020 and cheque No.214017 dated 01.03.2022 respectively of Rs. Two lakhs each. The remaining 5 lakh amount, the petitioner no. 1 returned to the complainant in cash through different transaction. Hence, the story cooped up by complainant is false and baseless. The alleged property, which has been transferred by the complainant in the name of petitioner no.1 through the registered sale deed, has no connection with the Industry set up by the petitioner no.1. The said property has been purchased by the petitioner no.1 in the year 2017 itself by making payment of the value of the property. He lastly submits that dispute involved in the present complaint is purely of civil nature and complainant has got alternative remedy. Petitioner no. 2 is son of petitioner no. 1 and he has got no concern with the alleged transaction. Petitioners claim clean antecedent.

5. On the other hand, learned counsel for the complainant vehemently opposed the bail petition and submitted apart from money, petitioner no. 1 also fraudulently took a piece of land of complainant worth Rs. 50 lakhs in the name of a partnership firm to establish an industry of fly ash bricks. He has further submitted that out of total 9 lakhs money, only 4 lakhs has been returned to complainant and submission of petitioners regarding payment of rest money in cash to the complainant is absolutely wrong and as such, the petitioners do not deserve privilege of anticipatory bail.

6. However, without accepting the submissions made on behalf of complainant, learned counsel for the petitioners submits that petitioners are ready to refund Rs. 2 lakhs to the complainant, for which, learned counsel for the complainant does not oppose.

7. Considering the nature of dispute between the parties and terms & conditions of the agreement entered into between the parties, let the above named petitioners, in the event of their arrest/surrender within a period of eight weeks from the

date of receipt/production of copy of this order, be enlarged on bail on furnishing bail-bond of **Rs. 10,000/-** (ten thousand) each with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1st Class, Jamui in connection with Complaint Case No. 931(C) of 2022, subject to condition as laid down under Section 438(2) of the Code of Criminal Procedure with further following conditions:

> "(A) At the time of furnishing bail-bond, the petitioners shall deposit **Rs. 2,00,000/-** (Two lacs) in the Nazarat of concerned Civil Court and receipt of the same shall be furnished alongwith bail-bonds.
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> (B) If petitioners fail to comply the direction of this Court, the learned Court below would be at liberty to cancel their bail-bonds."

8. This order has been passed, without going into the merit of the case, only for the purpose of considering the prayer for anticipatory bail of petitioners. The same shall be subject to final outcome of this case.

(Prabhat Kumar Singh, J)

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