

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.79388 of 2024

Arising Out of PS. Case No.-45 Year-2024 Thana- Kawaiya District- Lakhisarai

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1. Kumar Niraj S/o- Mundrika Prasad Singh Vill- Balgudar P.s- Dist-Lakhisarai
 2. Praveen Kumar S/o- Late Ramgulam Singh Vill- Hasanpur Khurd P.S.- Kawaiya, Dist- Lakhisarai

... .. Petitioner/s

Versus

1. The State of Bihar
2. Avinash Kumar S/o- Late Shambhunath Sah Naya bazar, W.No- 22, P.S. - kawaiya Dist-Lakhisarai

... .. Opposite Party/s

Appearance :

For the Petitioner/s	:	Mr. Shailesh Anand, Advocate
For the Opposite Party/s	:	Mr. Sanjay Kumar Tiwary, APP
For the O.P. No. 2	:	Mrs. Vaishnavi Singh, Advocate
		Mr. Ritwik Thakur, Advocate

CORAM: HONOURABLE JUSTICE SMT. SONI SHRIVASTAVA
ORAL ORDER

4 23-04-2025 1. Heard learned counsel for the petitioners, learned
APP for the State and learned counsel for the opposite party no.

2.

2. The petitioners apprehend their arrest in connection
with Kawaiya P.S. Case no.45 of 2024 registered under sections
406, 420, 341, 323, 504, 506 and 34 of the Indian Penal Code.

3. As per the prosecution case, the informant states
that one Kundan Kumar introduced the petitioner to the
informant for purchase of a land in which an agreement to sale
was entered between the parties and it was stated that if the
width of the land would not be 18 feet, the petitioners would



compensate for the same by giving some other land. The informant further states that on inspection, the said land is less than 18 feet upon which the informant wanted his money back from the petitioners which was about 45 lakhs. Out of the said amount, the petitioners returned an amount of Rs. 19 lakhs by way of cheque where as the remaining amount of Rs. 26 lakhs had not been returned. Hence, the F.I.R.

4. Learned counsel for the petitioners submits that the petitioners have been falsely implicated in the case. From bare perusal of the F.I.R, it would go to show that the dispute is primarily civil in nature. There is no intention to cheat the informant right from the inception. In view of the land not being of the description as desired by the informant, the amount was asked to be returned out of which it is admitted fact that the petitioners have returned an amount of Rs. 19 lakhs by way of cheque and they also returned the remaining amount of Rs.26 lakhs in cash but they are not in a position to prove the same. Learned counsel for the petitioners further submits that charge-sheet has been submitted in the case. Learned counsel for the petitioner relies upon a judgment of Hon'ble Apex Court in the case of ***Uma Shankar Gopalika vs. State of Bihar and Anr.*** [(2005) 10 SCC 336] in which it has been stated that in absence



of any allegation in the complaint that there was an intention on behalf of the accused to cheat from the inception, the same would not constitute an offence under Section 420 of the Indian Penal Code. The petitioners have no criminal antecedent and undertakes to cooperate in the case/trial.

5. The application for anticipatory bail is opposed by learned A.P.P. for the State and learned counsel for the informant who submits that the informant has been defrauded by the petitioners as they have not returned the substantial amount of money back to the informant as had been agreed upon. Learned counsel for the informant further submits that the the petitioners have been threatening the informant by stating that they would not pay the remaining amount.

6. The matter had also been sent to the Patna High Court Mediation Center but no settlement would be made between the parties.

7. Considering the rival contentions of the parties and also considering the fact that the issue relates to civil in nature and with the admitted position that the considerable amount has also been paid by the petitioners, it is directed that the petitioners, above named, in the event of their arrest or surrender before the learned Court below within a period of four



weeks, be released on anticipatory bail in connection with Kavaia P.S. Case no.45 of 2024 on each of them furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Lakhisarai, subject to the condition laid down under Section 438(2) of the Code of Criminal Procedure/Section 482(2) of the B.N.S.S, 2023 and further subject to the following conditions:-

(i) The petitioner shall co-operate in the trial and unnecessary adjournments would not be taken on their behalf which would act as an impediment in conclusion of the case against them.

(ii) In view of the apprehension raised by the learned counsel for the informant, the petitioners would not indulge in any act of threatening the informant and if such an act is substantiated by some concrete material, the opposite party no. 2 is at liberty to file cancellation of bail of the petitioners.

(Soni Shrivastava, J)

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