

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.28184 of 2015

Arising Out of PS.Case No. -556 Year- 2014 Thana -MOTIHARI TOWN District-
EASTCHAMPARAN(MOTIHARI)

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1. Rabish Kumar @ Ravish Kumar S/o late Hiralal Prasad resident of lohar
Patti, p.s Motihari town, District East Champaran.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Krishna Pd. Singh, Sr. Advocate
Mr. Rakesh Singh

For the Opposite Party/s : Mrs. Shashi Priya Pathak, Advocate
Mr. Smt. Indu Kumari Srivastava(App)

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**CORAM: HONOURABLE MR. JUSTICE JITENDRA MOHAN
SHARMA**
ORAL ORDER

4 30-10-2015 Heard learned Sr. Counsel for the petitioner, learned

counsel representing the State and learned counsel for the

informant.

The petitioner seeks bail in connection with Motihari
Town P.S. Case No. 556 of 2014 registered for the offence
punishable under Sections 420, 406, 465, 323, 327, 417, 467, 468,
504, 120B of the Indian Penal Code.

Allegedly, the petitioner executed a registered deed of
agreement to sale on 22.04.2009 after receiving advance of Rs.
18,00,000/- and it was agreed that sale deed will be executed after
payment of balance consideration amount of rupees four lacs but



the petitioner started refusing to accept the rest amount and execution of sale deed and it was learnt that the petitioner had mortgaged the said land with Bank of Baroda Motihari after taking loan and then the complaint case was filed as the petitioner after suppressing the fact of earlier loan executed the deed of agreement to sale and took Rs. 18,00,000/- and in that way he cheated the complainant/informant.

Submission is of false implication and that prior to this case the complainant/informant has filed Title Suit No. 580 of 2013 on 19.06.2013 in the court of Sub-Judge, Motihari, East Champaran wherein also the petitioner has appeared and filed his written statement on 15.05.2014 and this case has been filed on 17.07.2014 only with a view to put pressure. The dispute is purely of civil nature and the petitioner is still ready to return the advance amount of Rs. 18,00,000/- but the informant is not ready to take back the said amount and as such there being no mensrea petitioner deserves sympathetic consideration to which the learned APP duly assisted by learned counsel for the informant opposes by submitting that the petitioner has intentionally cheated the informant and now he is neither returning the loan amount to the bank nor executing the sale deed in favour of the informant after receiving the balance consideration amount of rupees four lacs.

Lodging of criminal case is no bar after filing Title Suit.

In the facts and circumstances stated above and noticing that Title Suit is already going on between the parties and chargesheet has already been submitted and there is no chance of tampering with prosecution evidence, the petitioner above named is directed to be released on bail on execution of bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, East Champaran at Motihari in connection with Motihari Town P.S. Case No. 556 of 2014, subject to the conditions that one of the bailors must be a near relative and another having sufficient immovable property within the territorial jurisdiction of the court concerned and the petitioner shall remain present on each and every date during trial and the default on two consecutive dates on his part without any reason shall disentitle the petitioner from privilege of bail.

(Jitendra Mohan Sharma, J)

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