

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45370 of 2014

Arising out of P.S.Case No. -1248 Year- 2013 Thana -NAWADAH COMPLAINT CASE District-
NAWADA

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Arun Kumar son of late Bachchu Singh, resident of Mohalla- New Area,
Kchhari Road, P.S. & District- Nawada, at present Secretary, Sri Krishna
Nagar, Housing Co-operative Society Limited, Nawada.

.... Petitioner/s

Versus

1. The State of Bihar
2. Smt. Neelam Nirmala, wife of Upendra Nr. Sahi, resident of Mohalla-
Ram Nagar, At + P.S. and District- Nawada.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Arbind Kumar Singh, Advocate.

For the Opposite Party/s: Mr. Ram Sewak Choudhary(APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

3 14-05-2015

Heard learned counsel for the parties as with regard to the
prayer of the petitioner for grant of anticipatory bail, who is an accused
for offence under Section 468/34 of the Indian Penal Code.

While the learned counsel for the petitioner has tried to
explain that the dispute, in fact, is with regard to execution of sale deed
by the petitioner to the complainant in capacity of the
President/secretary Housing Co-operative Society, this Court, on
hearing the learned counsel for the complainant, is of the view that even
if all the defence of the petitioner is accepted, the fact that the sale deed
was executed by the petitioner in favour of the complainant way back in
the year 1993 on payment of Rs. 25,520/- and that for the same land
was subsequently executed by the petitioner to another person in the
year 2002 without even mentioning about the execution by the

petitioner of the first sale deed in favour of the complainant, prima facie, it can be safely said that the offence as alleged against the petitioner was committed by him and thus he is not entitled for the privilege of anticipatory bail.

Faced with this situation, learned counsel for the parties have agreed to settle the dispute for once and ever keeping in view that even there is also a civil suit filed by the complainant against the petitioner and the Housing Co-operative Society. They have, in fact, agreed that if the petitioner pays a sum of Rs. 25,520/- along with simple interest @ 9% per annum from the date of execution of the sale deed by the petitioner in favour of the complainant till the date of its payment, the complainant shall not only withdraw the criminal prosecution lodged by her against the petitioner but also withdraw the civil suit.

That being so, if the petitioner, namely, Arun Kumar, surrenders before the court below within a period of eight weeks from today along with a proof of his being ready to make payment of the amount of Rs. 25,520/- with simple interest @ 9% per annum of the last 22 years, he shall be released on bail on furnishing bail bond of Rs. 10,000/- with two sureties of the like amount to the satisfaction of the learned Judicial Magistrate, 1st Class, Nawada in connection with Protest Complaint No. 1248/13 of Nawada Town P.S. Case No. 90/12 (Complaint Case No. CR 135/12), subject to the following conditions:

- (i) The petitioner shall pay the amount of Rs. 25,520/-

along with simple interest @ 9% per annum for 22 years by a bankers cheque/bank draft in the name of complainant Neelam Nirmala and the bail shall be granted only after production of such bankers cheque/bank draft by the petitioner in the name of the petitioner.

- (ii) It goes without saying that such bankers cheque/bank draft once furnished by the petitioner in the name of the complaint which shall be handed over by the court below to the complainant, whereafter it will be the duty of the complainant to withdraw the criminal prosecution but also the civil suit filed by her against the petitioner and the Housing Co-operative Society.
- (iii) That both the bailors will be close family relatives of the petitioner, who will undertake an affidavit giving genealogy as to how they are related with the petitioner. The bailors will also undertake to inform the court if there is any change in the address of the petitioner.
- (iv) That the affidavit shall clearly state that the petitioner is not accused in any other case and if he is, he shall not be released on bail.
- (v) That the bailors shall also state on affidavit that they will inform the court concerned, if the petitioner is

implicated in any other case of similar nature after his release in the present case and thereafter the court below will be at liberty to initiate the proceeding for cancellation of his bail on the ground of misuse.

- (vi) That the petitioner will be well represented on each and every date in course of trial and if he fails to do so on two consecutive dates, his bail will be liable to be cancelled on this ground alone.

(Mihir Kumar Jha, J)

Sujit/-

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