

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.46064 of 2015

Arising Out of PS.Case No. -510 Year- 2014 Thana -BUXAR District- BUXAR

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1. Laxman Prasad son of Late Saryu Prasad, Resident of Bazminagar,
Nalband Toli, Buxar, P.S.- Buxar Town in the District of Buxar

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Raj Kumar, Adv

For the Opposite Party/s : Mr. Abhay Kr.Roy(APP)

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CORAM: HONOURABLE MR. JUSTICE MIHIR KUMAR JHA
ORAL ORDER

2 04-11-2015 Heard learned counsel for the parties.

Having regard to the nature of allegation against the petitioner for the offences punishable under Sections-406 and 420 of the Indian Penal Code, this Court having taken into consideration the submission of the learned counsel for the petitioner is of the view that when it is an admitted fact, that there was an agreement for sale between the petitioner and the informant, for a piece of land by the petitioner to the informant on payment of Rs. 22 lacs, and the informant claims that he had paid Rs. 20 lacs and only 2 lacs was to be paid at the time of registration of the land



whereas the petitioner claims that the only payment made by the informant to the petitioner was Rs. 8 lacs 35 thousand by cheque and he is ready to refund the aforesaid amount of Rs. 8,35000/- to the informant is of the view that the petitioner having no criminal antecedent will be entitled for the privilege of anticipatory specially when the informant has already filed suit for specific performance being Title Suit No. 671 of 2015.

That being so, if the petitioner namely, **Laxman Prasad**, surrenders within a period of six weeks from today and produce bankdraft of Rs. 8 lacs 35 thousand, he would be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of **Additional Chief Judicial Magistrate, Buxar** in connection with **Buxar (T) P.S. Case No. 510 of 2014 (G.R. No. 2981 of 2014)**, subject to the conditions laid down under Section- 438 (2) Cr. P.C and also subject to the following conditions:-

(i) The petitioner at the time of surrender



shall deposit bankdraft of Rs. 8 lacs 35 thousand in the name of the informant, Harimohan Prasad and such draft shall be handed over by the Court below to the informant forthwith.

(ii) It is made clear that the payment of the aforesaid amount by the petitioner or receipt of the aforementioned by the informant, shall be without prejudice to their rights to be agitated in the aforesaid Title Suit No. 671 of 2015.

(iii) That both the bailors will be close relative of the petitioner who will give 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 bailor 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 bail on the ground of misuse.

(v) That the petitioner will give an undertaking that he will receive the police papers on the given date and be present on the date fixed for charge and if he fails to do so on two given dates and delays the trial in any manner, his bail will be liable to be cancelled for reasons of misuse.

(vi) That the petitioner will be well represented on each and every date 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)

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