

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45782 of 2014

Arising Out of PS.Case No. -240 Year- 2012 Thana -BIHARSHARIF District- NALANDA
(BIHARSHARIFF)

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1. Sultan Ahmad Son of Late Abdul Wadood, Resident of Mohalla -
Khanquah, P.S. - Laheri, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar
2. Suraj Deo Prasad, S/o- Late Ram Pratap, Village Jahana, P.S.- Bind.
District- Nalanda, at present Anand Nagar, Dekulighat, P.S.- Bihar,
District- Nalanda.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nilesh Kumar

For the Opposite Party/s : Mr. Kanhaiya Kishore(App)

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

4 19-05-2015

Heard Mr. Ajay Kumar Thakur for the petitioner, Mr.

Mritunjay Prasad Singh for the O.P. No. 2 and Mr. Ram Chandra
Singh , APP for the State.

Petitioner apprehends his arrest in Bihar P.S. Case
No. 240 of 2012 instituted under Sections 406 and 420/34 of the
Indian Penal Code.

According to the prosecution case, the land belonged
to the petitioner. He had entered into an agreement to sell with co-
accused Manish Kumar Kushwaha and others. Under such
representation, the informant is said to have paid on different dates
either in cash or through cheque a sum of Rs. 49 lakhs for
purchase of land of the petitioner. The payment through cheque in
the sum of Rs. 15 lakhs was credited in the account of the

petitioner. When the informant insisted the broker Manish Kumar Kushwaha as well as the petitioner, they refused to execute the sale deed. On these allegations, it has been alleged that the informant was cheated and the petitioner misappropriated the amount.

Learned counsel for the petitioner submits that the agreement to sell was between the petitioner and co-accused Manish Kumar Kushwaha. If no sale deed has been executed then the informant should prosecute Manish Kumar Kushwaha and not the petitioner. According to the informant himself, the amount was received by Manish Kumar Kushwaha and not the petitioner. The petitioner, therefore, deserves to be released on anticipatory bail.

Counsel for the informant, on the other hand, referring to Annexure-A to the rejoinder submitted that atleast a sum of Rs. 15 lakhs was paid by the informant through cheque drawn in the name of the petitioner which was cleared and credited in the account of the petitioner. The petitioner having received the amount is bound to execute the sale deed but he did not do so. The sale deeds which the petitioner is said to have executed on receiving the amount through Manish Kushwaha (copies whereof have been enclosed as annexures) would show that the sale deeds in respect of the land valued at nearly 11 lakhs

were only sold.

On consideration of submissions made by the parties, in my view, this is not a case where the privilege of anticipatory bail should be extended to the petitioner. Prayer is rejected. Let the petitioner surrender and seek regular bail.

(Kishore Kumar Mandal, J)

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