

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.34587 of 2015

Arising Out of PS.Case No. -1320 Year- 2014 Thana -PATNA COMPLAINT CASE District-
PATNA

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Arvind Kumar Singh, Son of Late Daroga Prasad Singh, Resident of
Lodipur, P.S. – Maner, District – Patna A/P Goriya Toli, Binayaka Hotel,
P.S. – Kotwali, District –Patna.

.... Petitioner

Versus

1. The State of Bihar
2. Arun Kumar Singh, Son of Chinta Rai, Resident of Village –
Brahmchari Pokhra Par, P.O.- Sherpur, P.S.-Maner, District – Patna.

.... Opposite Parties

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Appearance :

For the Petitioner : Mr. Dharmendra Kumar, Advocate.

For the Opposite Parties : Mr. Nirmal Kr. Sinha(App)

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

3 25-08-2015 Heard both sides.

The petitioner seeks bail in a case registered for the offences punishable under Sections 406, 506 of the Indian Penal Code.

The complainant alleged that the petitioner took Rs. 11,84,000/- and Rs. 9,70,880/- from him for running his brick kiln business. The petitioner executed two deeds of agreement one is to return the entire money and another deed of agreement is to sale the lands of the complainant, if the petitioner fails to return the money.

It is submitted that the petitioner did not receive any money and at best the case is of breach of the conditions of the

deed of agreement for which the proper remedy is in Civil Court. No offence under Section 406 of the Indian Penal Code is made out.

On the other hand learned counsel for the informant/complainant as well as the learned APP submitted that the petitioner after taking money from the complainant executed the deeds of agreement one for return the money and another if he fails to return the money he would execute the sale deed with regard to his lands. Admittedly, the petitioner did not return his money. It is further submitted that the petitioner has got criminal antecedent. One Complaint Case No. 60C of 2014 was filed under Sections 406 and other Sections of the Indian Penal Code as the petitioner had taken money from him and the case was compromised only after return of the money the second case is filed in Maner police station by the mining department and this fact very conveniently concealed by the petitioner in his bail petition. It is submitted that the petitioner does not deserve bail.

Considering the facts aforesaid and the fact that it is a case of breach of agreement between the parties for which proper remedy is specific performance of contract either for recovery of money or not getting the deed of sale to be executed with regard to the lands for which the agreement was executed and the fact that

the petitioner is in jail since 02.02.2015, the petitioner above named is directed to be enlarged on bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Sri Rahul Kumar, the learned Judicial Magistrate 1st Class, Danapur, Patna in Complaint Case No. 1320C of 2014.

(Prabhat Kumar Jha, J.)

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