

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44530 of 2016

Arising Out of PS.Case No. -78 Year- 2016 Thana -JAYNAGAR District- MADHUBANI

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1. Dr. Mahendra Prasad Gupta S/o Late Baidyanath Prasad Sah Resident of Jainagar, Rajhat Gali, Ward No. 2, P.S.- Jainagar, District- Madhubani.

.... Petitioner/s

Versus

1. The State of Bihar.
 2. Manoj Kumar Kapri, S/o Ram Chandra Kapri R/o Village- Jainagar, Brahman Tola, P.S.- Jainagar, District- Madhubani.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Kishore Kumar Sinha

For the Opposite Party/s Mr. Mukeshwar Dayal

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CORAM: HONOURABLE MR. JUSTICE HEMANT KUMAR SRIVASTAVA
ORAL ORDER

03/ 05.12.2016 Heard learned counsel for the petitioner as well as learned Addl. Public Prosecutor for the State.

Petitioner apprehends his arrest in connection with a case registered under section 406, 420 and 467 of the Indian Penal Code.

Petitioner happens to be owner of the house in respect of which the complainant/informant claims that he as well as two others entered into an agreement for sale and the informant, in pursuant to that agreement, gave Rs 83/- lakhs to the petitioner, though consideration money for execution of the sale deed in respect of that house had been agreed between the parties as Rs 95/- lakhs.

Submission on behalf of the petitioner is that even if the prosecution story assumed to be true, then also, it is case of



breach of contract and remedy lies in civil court. It is further submitted that on the basis of fact disclosed in the complaint petition, petitioner can not be prosecuted.

Considering the aforesaid facts and circumstances as well as submissions of the parties, in the event of arrest/ surrender within six weeks from the date of receipt of this order to the concerned court, let the petitioner be released on bail on furnishing bail bonds of Rs 10,000/- with two sureties of the like amount each to the satisfaction of the Sub divisional Judicial Magistrate, Madhubani in Jainagar P.S. Case no. 78/2016 subject to condition as laid down under section 438(2) of the Cr.P.C.

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(Hemant Kumar Srivastava,J)

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