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IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.31254 of 2016

Arising Out of PS.Case No. -67 Year- 2016 Thana -BHAGALPUR KOTWALI District-BHAGALPUR

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1. Vivekanand son of Late Laldhan Prasad Singh, resident of Mohalla- T. N. Singh Road, Admapur, P.S. Adampur, District-Bhagalpur

.... Petitioner/s

Versus

1. The State of Bihar
2. Kumar Prabhakar S/o. Ashok Kumar Singh,

.... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Pravin Kumar Sinha, Advocate
For the Opposite Party/s : Mr. Shyam Kumar Singh, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

4 26-11-2016 Heard learned counsel for the petitioner and learned Additional Public Prosecutor for the State.

The petitioner is apprehending his arrest in a case registered for the offences punishable under Sections 406/420/120B/467/468/471 of the Indian Penal Code.

The informant entered into an agreement to purchase the land from three persons including the petitioner on 18.07.2016.

Allegation is that huge consideration money was paid and receipt was granted on the back of the agreement paper. However, the property was not transferred.

At the time of submission, learned counsel for the informant failed to produce any document of title in the name of

petitioner or other proposed vendors, to substantiate that the informant had verified at least prima facie, that the land, which was the subject matter of transfer belong to the vendors. On being asked the informant disclosed that in fact they were middlemen. There is no reason that agreement to purchase property was entered into with a person who has no title over the property. Hence, the informant may avail appropriate remedy available under the law.

Learned counsel for the informant has relied on the order of another Hon'ble Bench passed in Cr. Misc. No.12320 of 2016, dated 17.03.2016, whereby prayer for anticipatory bail of co-accused Yogesh Chandra Jha @ Yogendra Chandra Jha, was refused. The aforesaid fact was not brought to the notice of the learned Judge that under Section 55 of the Transfer of Property Act, it is duty of the purchaser also to prima facie verify the title of his vendor and if the purchaser never sow any document of title of his vendor, he deliberately entered into the agreement at his own peril.

Let, the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of four weeks from the date of receipt of the order, 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 learned Chief Judicial Magistrate, Bhagalpur/Successor Court in connection with Kotwali (Adampur) P.S. Case No.67 of 2016, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

(Birendra Kumar, J)

Mkr./-

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