

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.57009 of 2015

Arising Out of PS.Case No. -228 Year- 2013 Thana -MOHANIA District- BHABHUA (KAIMUR)

1. Abhay Patel son of Sri Dhani Shankar Patel resident of village Plot No. 28, Balajee Nagar Colony, Samne Ghat, P.S. - Lanka, District - Varanasi, Uttar Pradesh.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Chandra Bhushan Rai son of Sri Dhanik Lal Rai resident of village - Anwari, P.S. - Mohania, District - Kaimur at Bhabua.

.... Opposite Party/s

Appearance :

For the Petitioner/s : M/s. Radha Mohan Pandey, Chandra Sekhar Verma and Bibhuti Ranjan
For the Informant : Mr.Sumeet Kumar Singh
For the Opposite Party/s : Mr. Umesh Lal Verma, A.P.P.

CORAM: HONOURABLE JUSTICE SMT. ANJANA MISHRA
ORAL ORDER

6 18-05-2016 Heard learned counsel for the petitioner and the learned counsel appearing on behalf of the Complainant as well as learned counsel for the State.

The petitioner is apprehending his arrest in a case registered under Sections 406, 467, 468/34 of the Indian Penal Code.

Learned counsel for the petitioner submits that he is the resident of Uttar Pradesh and complaint has been lodged against him at Bhabhua alleging that he had sold the land to the informant for a sum of Rs. 6 lacs, which he has already sold to one



another person. Learned counsel for the petitioner further submits that the petitioner has not sold his land. On the contrary the petitioner is a victim of highhandedness of the gang of which one Jailendra Kumar Rai was the leader. It is further submitted that the said Jailendra Kuamr Rai along with other members of the gang had forcibly kidnapped the petitioner and his family members and got registered sale deed and has also taken the signature of the petitioner on some blank papers as well as on certain cheques. He further submits that thereafter the petitioner moved Allahabad High Court seeking protection, which was duly granted to him. He further submits that against the aforementioned deed, which was forcibly executed by him, the petitioner had filed a series of Title Suits, which are pending in the Civil Court, Mirzapur. So far present complaint case is concerned, the complainant is a person set up by Jailendra Kumar Rai who in order to grab the land of the petitioner, has filed the present case alleging that the petitioner had issued cheques for returning the money which he could not execute the sale deed, which was executed by him in favour of the complainant. The said cheque was returned for want of insufficient fund and for the same he is facing trial. Learned counsel for the petitioner submits that the cheques provided for payment to others have been forcibly taken by Jailendra Kumar Rai and are being sought to be used by the

present complainant .Such facts cannot be determined in the present proceeding. However, it appears that the history of the case is that there is a persistence victimization of the petitioner. The prosecution shows as alleged in the complaint petition is also not above a cloud.

In view of nature of allegation in the complaint petition and also the fact that question of false implication can not be ruled out, let the petitioner in the event of his arrest/surrender in the court below within a period of four weeks from today 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,Bhabua (Kaimur) in Mohania P.S.Case No. 228 of 2013 (G.R.No. 1505 of 2013) arising out of Complaint Case No. 649 of 2013 ,subject to the conditions as laid down u/s 438(2) Cr.P.C.

It is made clear that one of the bailors must be his close relative, namely, father/mother/wife. It is also made clear that as and when required, the petitioner shall make himself available for investigation and also appear in the court below on all dates and shall also not absent himself from the Court on two consecutive dates. In case he fails to appear on two consecutive dates, without assigning any reasonable cause, it shall be open to the complainant to take appropriate steps, in

accordance with law, including moving this Court/ Court below
for modification of the order.



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(Anjana Mishra, J)