

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.10510 of 2016

Arising Out of PS.Case No. -172 Year- 2015 Thana -BIHARSHARIF District- NALANDA
(BIHARSHARIFF)

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Fahad Nawab son of Md. Nawab Alam, resident of Mohalla- Mahalpar,
P.S.- Bihar, District- Nalanda.

.... Petitioner/s

Versus

1. The State of Bihar
2. Shivli Nomani, son of Late Md. Akhtar Alam, resident of village/
mohalla- Sakuntakala, P.S. Bihar, District Nalanda

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Bhola Kumar, Advocate
For the Opposite Party/s : Mr. Rajendra Singh Shastrijee (APP)

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CORAM: HONOURABLE JUSTICE SMT. NILU AGRAWAL
ORAL ORDER

4 20-05-2016 Heard learned counsel for the petitioner and the

learned A.P.P. for the State.

Vide order dated 08.03.2016, notices were issued to
opposite party no.2, but the office note dated 06.05.2016 reflects
that on two dates, opposite party no. 2 refused to receive notice,
which was affixed on the door of his house, hence, it was deemed
to be a valid service of notice.

On 09.05.2016, opposite party no.2 had not appeared.
Even today he is not present.

Petitioner apprehends his arrest in connection with
Bihar P.S. Case No. 172 of 2015 registered for the offences
punishable under Sections 467, 468, 406, 420, 120(B) and 376 of

the Indian Penal Code.

As per the prosecution case, complainant/ informant has alleged that there was an agreement of sale of land measuring an area of 17 decimals and advance of Rs. Four lacs was given to the petitioner by him, but the sale deed was not executed by the petitioner and on demand accused persons gave two cheques for Rs. One lakh which could not be honoured due to insufficient amount in the account of the petitioner and, accordingly, the petitioner grabbed the aforesaid money of the complainant/ informant.

It has been submitted by the counsel for the petitioner that petitioner is innocent, no agreement was executed by her and the other co-accused, who is alleged to have taken money from the complainant/ informant has since been granted the privilege of anticipatory bail by the learned Sessions Judge, Bihar Sharif. He submits that, at best, it may be a case under Section 138 of the Negotiable Instrument Act, which is bailable. He further submits that the petitioner has no criminal antecedent and the matter relates to civil dispute.

However, learned A.P.P. for the State submits that the petitioner is named in the First Information Report, hence, opposes the prayer for bail.

Be that as it may, since the matter relates to civil dispute and the co-accused having been granted the privilege of bail by the learned Court below itself, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of eight weeks from today, be released on bail on furnishing bail bond of Rs. 10,000/- (Ten thousand only) with two sureties of like amount each to the satisfaction of learned Chief Judicial Magistrate, Nalanda at Biharsharif in connection with Bihar P.S. Case No. 172 of 2015, subject to the conditions as laid down under Section 438 (2) of the Cr. P.C.

(Nilu Agrawal, J.)

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