

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.32754 of 2017

Arising Out of PS.Case No. -156 Year- 2017 Thana -SASARAM NAGAR District- SASARAM
(ROHTAS)

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1. Damodar Singh, son of Ram Kumar Singh, resident of village- Khaira,
P.S.- Darigaon, District- Rohtas (Sasaram).

.... Petitioner/s

Versus

1. The State of Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Rajesh Kumar Mishra, Advocate

For the Opposite Party/s : Mr. Jagdhar Prasad, APP

Mr. Sanjay Kumar @ Manu, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4/ 09-08-2017

Heard learned counsel for the Petitioner and the

State as well as counsel for the Opposite Party No.2.

The Petitioner apprehends his arrest in Sasaram Town P.S. Case No.156 of 2017 instituted for the offence under Section(s) 406, 420, 323, 341, 307, 379, 354 Indian Penal Code pending in the Court of the Chief Judicial Magistrate, Sasaram.

Allegation against the petitioner is that he executed registered *Mahadnama* in favour of the complainant for the sale of the land as mentioned in the Complaint Petition after receiving rupees sixty five thousand as earnest money, but neither he returned the money nor executed the sale deed.

Counsel for the Informant has appeared *suo motu*. It has been submitted by the counsel for the Informant that he is



ready to take back his rupees sixty five thousand if the petitioner is not inclined to execute the sale deed in his favour as per *Mahadnama* executed between the parties.

Counsel for the petitioner took time to seek instruction from his client. Today, it has been submitted that there was clause in the agreement that if the informant will not make payment of the balance amount of the consideration money within a period of three months, the earnest money will be forfeited automatically. It has further been submitted that for recovery of the earnest money the petitioner has civil remedy.

This Court after looking into the agreement finds that it is admitted that rupees six five thousand was paid by the informant to the petitioner and thereafter *Mahadnama* was executed. There is allegation in the Complaint Petition that the petitioner did not execute the sale deed and gave threat to the informant whenever he requested to execute the sale deed.

On the specific query made by the Court with regard to refund the amount of rupees sixty five thousand by the petitioner, counsel for the petitioner submits that civil remedy is available to the informant.

In view of such conduct of the petitioner, this Court does not find it a fit case for grant of anticipatory bail.



Prayer is rejected.

The petitioner may surrender before the Court below
and seek regular bail, which shall be considered and disposed of
on its own merit without being prejudiced by this order.

(Sanjay Priya, J)

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