

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.44417 of 2017

Arising Out of PS.Case No. -920 Year- 2015 Thana -SITAMARHI COMPLAINT CASE District-
SITAMARHI

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1. Rahul Kumar, son of Kaushlendra Nath Jha, Manager, Aarna (Ford),
Automobiles Pvt. Ltd., P.S.- Bhagwanpur, District- Muzaffarpur.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Vishwanath Prasad, son of late Yugal Prasad, R/o Village- Mela Road,
Ward No.22, Bhabdepur, P.S.- Sitamarhi, District- Sitamarhi.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sameer Ranjan, Advocate
For the Opposite Party/s : Mr. Sri Abhay Kumar Roy, APP
Mr. Alok Kumar Jha, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4/ 11-10-2017

Heard learned counsel for the petitioner and learned

APP for the State.

Petitioner apprehends his arrest in Complaint Case
No.C-1/920/2015 instituted for the offence under Section(s) 323,
406, 504/34 Indian Penal Code.

The petitioner has submitted that he is Manager of
Aarna Ford Pvt. Ltd. He admits about receiving rupees one lac
seventy thousand by the Company towards booking of a car by
the Complainant. The Company is ready to return the aforesaid
amount to the Complainant. The Complainant states that he has
also made payment of rupees eighty five thousand in cash. The
petitioner states that he has returned the aforesaid amount. The
Complainant has filed the receipt, which is kept at page 5 of the



Counter Affidavit, in support of such payment but the petitioner disputes the validity of the aforesaid receipt. The petitioner, however, admits genuineness of the first receipt dated 16.12.2014 annexed as Annexure-A to the Counter Affidavit, which shows receipt of rupees twenty thousand by the Company from the Complainant.

The Complainant is ready to accept amount of rupees one lac seventy thousand through Demand Draft, which is the admitted amount by the petitioner.

In such circumstances, petitioner is directed to surrender in the Court below i.e. **Additional Chief Judicial Magistrate, VI, Sitamarhi**, in connection with **Complaint Case No.C-1/920/2015** within four weeks from today along with receipt showing payment of rupees one lac seventy thousand to the Complainant through Demand Draft and in that event the Court below shall release the petitioner on anticipatory bail on furnishing bail bond of ₹10,000/- (ten thousand) with two sureties of the like amount each to its own satisfaction subject to the conditions as laid down under Section 438(2) Cr. P. C. with further conditions: (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioner shall cooperate in the trial and shall be



present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason will automatically cancel bail bond of the petitioner and (3) if petitioner tampers with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

In the event the Complainant does not accept the Demand Draft with respect to the admitted dues of rupees one lac seventy thousand, petitioner will deposit the aforesaid Demand Draft in the Court below at the time of his surrender.

With respect to disputed amount of rupees eighty five thousand, counsel for the Complainant has submitted that the Company be asked to deposit the amount in the Nazarat of the Civil Court, which shall be subject to final decision of the case.

This Court is of the view that at this stage since the aforesaid amount is disputed by the petitioner, no any order is required to be passed for depositing the amount. Aforesaid amount will be subject to final decision of the case.

(Sanjay Priya, J)

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