

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.47955 of 2016

Arising Out of PS.Case No. -166 Year- 2016 Thana -CHAPRA MUFFASIL District- SARAN

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Kumar Prabhat, son of Keshav Kumar Singh, resident of Mohalla-
Prabhunath Nagar, P.S.-Chapra Muffasil, District- Saran

.... Petitioner/s

Versus

State of Bihar & Anr

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. P. K. Shahi, Sr. Advocate with
Mr. Md. Shahnawaz Ali, Advocate

For the Opposite Party/s : Mr. Pradeep Narain Kumar, APP
Mr. Surendra Kishore Thakur, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

6/ 22-02-2017

Heard learned counsel for the Petitioner and the

State.

The Petitioner apprehends his arrest in Chapra (M)
P.S. Case No.166 of 2016 instituted for the offence under
Section(s) 406, 420, 467, 448, 504, 506/34 Indian Penal Code
pending in the Court of the Chief Judicial Magistrate, Saran.

The prosecution case is that Technoculture Building
Centre Pvt. Ltd., known as Vastu Vihar, is a registered company
working for construction of building, sale and purchase of land
and its office is also in Chapra at Municipal Chowk. The
company was in need to purchase land for construction of
building. The petitioner approached the office of the company on
04.10.2011 and offered to sale his own land as well as land of
others. The petitioner executed agreement to sale land in favour



of the Company and on the basis of such agreement the company paid ₹6,34,73,000/- to the petitioner through RTGS/cheques etc. The petitioner transferred the land in favour of the company only worth ₹3,48,77,062/- and an amount of ₹2,85,95,938/- of the company is still due against the petitioner. It is alleged that on asking of the company to execute the sale deed, the petitioner always evaded and gave threat to the officials of the company. The informant has further alleged about cheating of ₹2,85,95,938/-.

It has been submitted on behalf of the petitioner that it is completely matter of accounting and civil remedy is available to the petitioner. Counsel for the petitioner has pointed out Annexure-8 to the Supplementary Affidavit to show that 'No Objection' dated 29.03.2012 was issued by the Company stating that the petitioner has executed sale deed in respect of ₹2,30,00,000/- in favour of the company.

In reply of the statement of the Supplementary Affidavit, Counter Affidavit has been filed by the Opposite Party No.2 stating therein that further amount was paid to the petitioner even after 2012, which will be apparent from the statement of account of the bank annexed as Annexure-B series with the Counter Affidavit. The petitioner also executed agreement dated



02.02.2013 for executing the sale deed with respect to 5 Bighas of land.

It is further submitted on behalf of the Informant in para 6 of the Counter Affidavit that in terms of the agreement dated 04.10.2011, 02.08.2012 and 02.02.2013, amount was transferred in the account of the petitioner through RTGS as well as cash and till 09.10.2014, ₹6,34,73,000/- has been transferred.

The petitioner does not deny having received the aforesaid amount from the Informant.

However, it has been submitted by the petitioner that dispute is with regard to accounting and no criminal offence is made out.

From the averments made in the written report, materials available in the case diary as well as statement of account enclosed by the Informant with the Counter Affidavit, it appears that ₹6,34,73,000/- was paid to the petitioner by the Informant through RTGS, cash, cheque etc. The informant requested the petitioner several times to execute the sale deed with respect to remaining amount of ₹2,85,95,938/-, which was not done.

In such circumstances, 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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