

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.2804 of 2017

Arising Out of PS.Case No. -884 Year- 2016 Thana -PURNIA COMPLAINT CASE District-
PURNIA

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1. Utpal Vyas S/o Late Chandu Lal Vyas R/o Unit-3-296/3, Govind Bosh Lane, P.S.-Kalighat, District-Kolkata (West Bengal).

.... Petitioner/s

Versus

1. The State of Bihar

2. Raj Kumar Bhagat S/o Sai Ram Narayan Bhagat, R/o Village-Ramraj Chauk, Gulab Bagh, P.S. Sadar, Distt.-Purnea

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sunil Kumar Pathak

For the Opposite Party/s : Mr. Sri Suresh Prasad Singh

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

3 04-05-2017

Heard learned counsel for the petitioner and the State.

The petitioner apprehends his arrest in C.A. Case No. 884 of 2016 instituted for the offence under Sections-406, 420 of the Indian Penal Code.

As per complaint petition, the petitioner agreed to sale the land as described in the complaint petition to the complainant at the rate of Rs. 1,60,000/- per Katha and accordingly, agreement was prepared on 17-03-2015. The complainant paid total amount of Rs. 13,00,000/- either by the cash or bank draft as mentioned in the complaint petition, for which, the petitioner gave receipt in his own handwriting on 14-11-2015. The petitioner assured to execute the sale deed till 31-03-2016 after receiving balance amount but he became ready to execute sale deed only of 14 Kathas land saying that sale deed for remaining land will be executed after taking



amount. It is alleged that the stamp paper was also purchased and the petitioner signed on the sale deed but later on, the petitioner did not appear before the Registrar.

Counsel for the petitioner has appeared and stated that he is ready to return the amount of Rs. 13,00,000/- as alleged to be paid by the complainant for which he has also issued a receipt. He has further submitted that in the lower court in the course of S.A. the complainant has made claim for total amount of Rs. 13,00,000/-

Counsel for opposite party No. 2 has submitted that he has made payment of Rs. 13,00,000/- in the year 2015 after taking the money from different customers and he has to return those amount to customers along with interest. Therefore, he has made prayer with the court for directing the petitioner to make payment of some amount towards the interest. The petitioner has become ready to make payment of further amount of Rs. 1,00,000/- to the opposite party No. 2. In such circumstance, the petitioner is directed to make payment of Rs. 14,00,000/- to the informant either by the demand draft or by cheque within a period of six weeks. The complainant has agreed that after receiving the full amount of Rs. 14,00,000/- he will return the deed of agreement entered into between the parties to the petitioner and will also file compromise petition in the lower court for final disposal of the



case.

In such circumstances, the petitioner is directed to surrender in the lower court within six weeks from today and in the event, the court below is satisfied that petitioner has made full payment of Rs. 14,00,000/- to the complainant either by cheque or demand draft, the court below will enlarge the petitioner on anticipatory bail subject to conditions as laid down u/S 438(2) of the 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 petitioners 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.

It is made clear that in the event the amount as ordered above is not paid by the petitioner within the aforesaid period of six weeks, the learned court below will not release the petitioner on anticipatory bail.

Accordingly, this petition stands disposed of.

(Sanjay Priya, J)

A.K.V./-

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