

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.41892 of 2017**

Arising Out of PS.Case No. -195 Year- 2017 Thana -ALAMGANJ District- PATNA

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Anil Kumar Mehta @ Anil Kumar @ Binod Kumar, son of Late Harinath Mahto, resident of Mohalla- Arfabad Colony, Pitambara Mandir, P.S. Alamganj, Dist.- Patna.

.... .... Petitioner/s

Versus

The State of Bihar.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Rudra Deo

For the Opposite Party/s : Mr. Sri Anil Kumar Singh 1

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**CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH**  
**ORAL ORDER**

2      21-09-2017                      Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the informant.

The petitioner seeks pre-arrest bail in connection with Alamganj P.S.Case No. 195 of 2017 registered under Sections 406, 420 and 34 of the Indian Penal Code.

It is submitted by the learned counsel for the petitioner that it has wrongly been alleged in the FIR that the petitioner received Rs.36,50,000/- as advance for execution of sale deed in respect of the plot in question. He has submitted that the informant had advanced a sum of Rs.20 lacs only and for one reason or the other the sale deed could not be executed and, while granting bail to the co-accused Deepak Kumar, this Court had put a condition for refund of the said amount and, out of that, Rs.11 lacs have already been returned by the co-accused Deepak Kumar. He has contended that even otherwise the ingredients of the offences



punishable under Sections 406 and 420 of the Indian Penal Code would not be attracted in view of the law laid down by the Supreme Court in ***Murari Lal Gupta Vs. Gopi Singh [(2005)13 SSC 699]***.

Learned counsel for the informant has vehemently opposed the prayer for grant of pre-arrest bail to the petitioner. He has submitted that the petitioner is changing his stand while arguing the case. He has contended that the petitioner himself has admitted that he has received Rs.36,50,000/- as advance. He has contended that the alleged offence not only attract the ingredients of the offences alleged but the informant has also a remedy to recover the amount by filing suit.

Regard being had to the facts and circumstances of the case, in the event of his arrest or surrender before the court below within four weeks from today, the petitioner is directed to be released on bail on furnishing bail bond of Rs.10,000/- (Rupees ten thousand) with two sureties of the like amount each to the satisfaction of the learned A.C.J.M., Patna City in connection with Alamganj P.S.Case No. 195 of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

**(Ashwani Kumar Singh, J)**

Pradeep/-

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