

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.38694 of 2018

Arising Out of PS.Case No. -1862 Year- 2017 Thana -SAMASTIPUR COMPLAINT CASE
District- SAMASTIPUR

=====

Nirbhay Singh S/o Yogendra Singh @ Jogendra Singh, R/o House No. 10G,
Gali No. 5, Ashok Vihar, Phase -III, Gurgaon, P.S.- Gurgaon Sadar,
Haryana, Presently residing at House No.-463, Gurgaon Sector -39 Jhorsa
Village Near Medanta Hospital, P.S.- Sadar, Gurgaon, Haryana.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Lalit Kumar S/o Jagdish Rai, R/o Vill.- Govindpur Khajuri, P.S.-
Kalyanpur, District- Samastipur.

.... Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr. Sanjay Kumar

For the Opposite Party/s : Mr. Sri Arun Kumar

=====

CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

3 24-07-2018 Heard learned counsel for the petitioner, learned
counsel for the complainant and learned A.P.P. for the State.

The petitioner seeks regular bail in connection with
Complaint Case No.1862 of 2017 registered for the offences
punishable under Sections 406, 420, 467, 468, 120B of the Indian
Penal Code and Section 138 of the N.I. Act.

As per complaint petition this petitioner negotiated to
sell his house situated at Gurgaon (Haryana) to the complainant
and as per contract he came at the place of complainant and took
an amount of Rs.23 lacs in cash. The petitioner neither executed
sale deed nor returned money. After much persuasion, this
petitioner issued cheque on 15.09.2007 for an amount of Rs.5 lacs



and another two cheques on 30.09.2017 and 03.10.2017 for an amount of Rs.5 lacs and Rs.13 lacs. The said cheques were presented before Bank which bounced on account of insufficient fund.

It has been submitted that the complainant has lodged this case with false and frivolous allegation only to harass the petitioner. There was absolutely no negotiation for sale of any house. The complainant has not mentioned the details of house to be sold and its price in the complaint petition. The complainant has not filed any chit of paper to show that such amount in cash was received by the petitioner although he has asserted that a receipt was given to the complainant. The complainant has further stated that a legal notice was given to the petitioner on 09.10.2017 and without exhausting the statutory period, the complainant has filed the case on 28.10.2017. The court below took cognizance and issued non-bailable warrant of arrest within 2-3 days after filing of the complaint petition. It is improbable and unbelievable that this petitioner, who is a resident of Gurgaon (Haryana), would come at the place of complainant at Samastipur (Bihar) to collect an amount of Rs.23 lacs and the complainant would give such huge amount with getting any agreement for sale executed. The petitioner is in custody since 02.01.2018 and so he deserves to be enlarged on bail.



The learned counsel for the complainant and learned A.P.P. for the State opposed the submission.

On going through the documents on record, I find that there is no paper in support of complaint petition to show that such amount of Rs.23 lacs was received by the petitioner although the complainant has asserted that a receipt was granted to him by this petitioner on a printed paper under his signature. The complainant gave notice to the petitioner on 09.10.2017 and filed the complaint case on 28.10.2017. It further appears that the complainant was examined on 30.10.2017 and other two witnesses were examined on 31.10.2017. The magistrate without issuing summons has issued non-bailable warrant of arrest on 06.11.2017.

Considering the facts and circumstances of the case, the prayer of bail is allowed. The petitioner, named above, is directed to be released on bail on furnishing bail bond of Rs.10,000/-(ten thousand) with two sureties of like amount each to the satisfaction of the learned Chief Judicial Magistrate, Samastipur in connection with Complaint Case No.1862 of 2017.

(Sanjay Kumar, J)

Harish/-

U			
---	--	--	--

