IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.70446 of 2018

Arising Out of PS. Case No.-568 Year-2016 Thana- KOTWALI District- Patna

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Naveen Malhotra son of Late Raushan Lal Malhotra, resident of B 4/18 third Floor Safdarjung Enclave, P.S.- Safdarjung Enclave, District- South West Delhi- 110029.

... ... Petitioner/s

Versus

The State of Bihar

... ... Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. P.K. Sahi, Sr. Advocate
	:	Mr. Aditya Shankar, Advocate
	:	Mrs. Shama Sinha, Advocate
	:	Mr. Ravi Prakash, Advocate
	:	Mr. Sanehay Srivastava, Advocate
	:`	Mr. Sourav Suman, Advocate
For the Opposite Party/s	:	Mr. Sri Satyavarat Verma
For the Informant	:	Mr. Jitendra Singh, Sr. Advocate
	:	Mr. Harsh Singh, Advocate
	:	Mr. Kamal Kishore Singh, Advocate

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CORAM: HONOURABLE MR. JUSTICE S. KUMAR

ORAL ORDER

3 10-12-2018 Heard learned counsel for the petitioner, learned counsel for the State and learned counsel for the Informant.

Petitioner, who is in custody, seeks bail in connection with Kotwali P.S. Case No. 568 of 2016 registered for the offence punishable under Sections 420, 406, 506, 34, 467, 468, 471, 472 of the Indian Penal Code pending in the court of learned C.J.M., Patna.

Informant Jitendra Sharma, has filed a written complaint dated 02.12.2016 before the Officer-in-charge, Kotwali police station, Patna against petitioner and his family members of cheating, forgery, criminal breach of trust and threatening to kill him. It has been stated in the written complaint that he had talk with Naveen Malhotra (petitioner) in respect of purchase of immovable property situated at Connaught Palace, Barhkhamba Lane World Trade Centre comprising five Katras and Naveen Malhotra (petitioner) told him to come to Delhi and see the premises and thereafter he went to the residence of Naveen Malhotra (petitioner) and in his house his wife Parneeta Malhotra, daughter Yamini Malhotra, son Rahul Malhotra were present. Yamini Malhotra showed him a file to be Title document of said property and also asked to accompany her to physically see the property and all the four took him to Barhkhamba Lane. He liked the premises shown by all the four but did not inquired much about it as half of the premises were to be purchased by the Malhotra's family and they told total consideration amount as 10,80,00,000 (Ten crore eighty lacs only) of the complete premises. He believed them, Parneeta told that owner of the property is gentleman and she has family relation with him and generally he resides abroad. She said that Surendra Kumar has been authorized to deal with the property and for which the authorized documents has been shown to her and to save the Capital Gain Tax he has asked for payment of consideration amount through cheque and RTGS in name of different persons accordingly he paid Rs. 6,33,00,000/- (Six crore thirty three lacs only) to the persons named by them and Arjun Singh is witness to said transactions. Even after making payment of said premises the owner of said premises or the persons authorized by him could not be produced by Malhotra's family, as such he stopped further payment and asked them to refund the amount but they denied to refund the amount and started threatening him.

Subsequently, he came to know that Naveen Malhotra (petitioner) and his family and his sister Nita Prakash are fraud and blackmailer and more than 115 criminal cases are pending against them. All the four members of Malhotra's family has played fraud with him, as a result of which he is financially crippled.

It has been submitted on behalf of the petitioner that the allegations made in the written complaint are false and concocted. No ingredients in order to constitute any offence of cheating, forgery is made out. The allegations even assuming to be true can be treated as civil dispute and no criminal offence is made out. The allegations are that believing petitioner the informant has made payment to different persons as named by petitioner for purchase of a property and name of owner of said property has also not been disclosed in the complaint petition. There is no written agreement between the parties and whole transactions are oral. The property is located in Delhi and all offences as alleged have been committed within the jurisdiction of court at Delhi. It has been further submitted on behalf of the petitioner that allegation is of payment of Rs. 6,33,00,000/- as a part payment for purchase of property and same being not refunded to complainant but he has not stated that what steps he had taken to realize Rs. 6,33,00,000/- which was made as a part payment for purchase of said property. It has been further submitted that petitioner and informant are known to each other and they were business partners also and there has been a joint account in the bank in their name and subsequently there has been full and final settlement of accounts between them for which informant has issued a receipt dated 06.09.2016 (Annexure-5) stating therein that no money is due now, however, same has been disputed by the counsel for the informant. Petitioner had instituted a case against informant giving rise to South Delhi P.S. K. M. PUR, FIR No. 576 dated 27.10.2016 under Section 387 r/w 34 of IPC and present case has been filed as a counter blast of said case.

Informant has appeared and has vehemently opposed the prayer for grant of regular bail to the petitioner and has also filed a counter affidavit and has stated that informant is a victim of grave fraud committed by the petitioner and other accused persons. Petitioner and his family members are implicated in several criminal cases filed by several public sector banks and financial institutions. Petitioner or his family members or through their the company have defrauded and cheated many persons. They are in habit of abandoning and shifting their place of residence. Petitioner has not disclosed all the criminal cases pending against him and informant by Annexure-A has brought the total number of criminal cases pending against petitioner. Petitioner is also accused in Bandra P.S. Case No. 345 of 2015 in which petitioner has been granted anticipatory bail on the condition that he will not leave the country without the permission of court and present himself before Bandra Police Station. Petitioner has suppressed pending of Ballabhgarh P.S. Case No. 185 and 186 of 2012 in the District of Faridabad, Haryana instituted for the offences under Sections 406, 420, 467, 468, 471, 120B, 34 of the I.P.C. in which petitioner was granted bail by Punjab and Haryana High Court on 30.08.2013. He is also accused in Faridabad P.S. Case

No. 645 of 2010.

After considering the rival submissions and materials available on record, the petitioner is directed to be released on bail upon furnishing bail bond of Rs. 20,000/- (twenty thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Patna, in connection with Kotwali P.S. Case No. 568 of 2016 subject to the conditions that:-

(1) Bailors should be local having sufficient immovable property within the jurisdiction of the court concerned.

(2) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the court and shall remain physically present on direction of Court and his absence on two consecutive dates without proper and sufficient reason the trial court will be at liberty to cancel his bail bond.

(3) If the 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.

(S. Kumar, J)

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