

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15087 of 2018

Arising Out of PS.Case No. -1477 Year- 2017 Thana -GOPALGANJ COMPLAINT CASE District-
GOPALGANJ

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Banka Chaudhary, Son of Late Mahadeo Chaudhry, Resident of Village-
Dubey Sarisva, P.S.- Mirganj, District- Gopalganj. Petitioner/s
Versus

1. The State of Bihar.
2. Chandrama Ram, S/o Ramadhar Ram, R/o Village- Sarisava Dubey, P.S.-
Mirganj, District- Gopalganj. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Yogendra Prasad Sinha
For the Opposite Party/s : Sri Shyam Bihari Singh

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CORAM: HONOURABLE MR. JUSTICE SANJAY KUMAR
ORAL ORDER

2 09-04-2018 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner apprehends arrest in connection with
Complaint Case No. 1477 of 2017 registered for the offences
punishable under sections 406 and 420/34 of the Indian Penal
Code.

Allegation as per complaint petition is that this
petitioner entered into an agreement to transfer his land in favour
of the complainant as he was in need of money to perform
marriage of his daughter. He took an amount of Rs.5,00,000/-
(five lacs) in several instalments but he did not execute sale deed
in favour of the complainant nor returned the money and thereby
cheated the complainant and committed breach of trust.

It has been submitted that it was/is the complainant



who had agreed to execute a sale deed with respect to his land for which the petitioner had given Rs. 5,00,000/- to the informant but the informant neither returned the money nor transferred the land and thereby cheated the petitioner and committed breach of trust for which the petitioner has filed a complaint case bearing no. 2163 of 2017 which is pending in the court of Chief Judicial Magistrate, Gopalganj. It has been further submitted that the allegation of cheating and breach of trust against the petitioner is omnibus and no offence as alleged is made out. The dispute is purely a civil dispute and so the petitioner deserves anticipatory bail.

The learned Additional Public Prosecutor on the other hand, opposed the submission.

Considering the nature of allegation, case and counter case between the parties, the prayer of anticipatory bail is allowed and the petitioner above named, in the event of arrest or surrender before the court below within a period of six weeks, be released on bail on furnishing bail bond of Rs. 10,000/-(Ten thousand) with two sureties of the like amount each to the satisfaction of Additional Chief Judicial Magistrate-XVI, Gopalganj in connection with Complaint Case No. 1477 of 2017, subject to the condition as laid down under section 438 (2) of the Criminal



Procedure Code. Further condition is that (1) one of the bailors of the petitioner shall be a local person having sufficient immovable property within the jurisdiction of the concerned Court. (2) The petitioner will not induce any witness or tamper with the evidence. (3) The petitioner shall cooperate in the disposal of trial and make himself available as and when required by the court.

(Sanjay Kumar, J)

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