

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53904 of 2017

Arising Out of PS.Case No. -599 Year- 2015 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Sheo Kumar Gupta Son of Late Laldeo Prasad resident of Mohalla -
Rakunpura Naharpar, Bailey Road, P.S. Rupaspur, District Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Nagendra Kumar Son of Shiv Jatan Singh Resident of Jalalpur, P.O.
Sahaynagar, P.S. Rupaspur, District - Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Nilanjan Chatterjee

For the Opposite Party/s : Mr. Sri Shyam Bihari Singh

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CORAM: HONOURABLE MR. JUSTICE MOHIT KUMAR SHAH
ORAL ORDER

5 01-02-2018 Heard the learned counsel for the petitioner and the

learned A.P.P. for the State.

This is an application for grant of anticipatory bail

in connection with complaint case no. 599(c) of 2015 registered

for the offences punishable under Sections 406, 420, 120B of

Indian Penal Code.

According to the complaint petition, the petitioner

had agreed to sell a flat to the complainant for a sum of Rs. 25 lacs

whereupon, the complainant is said to have paid a sum of Rs. 17

lacs on two different dates to the petitioner herein. It is further

alleged that the said flat in question was sold to some other person

and when the complainant confronted the petitioner herein, the



petitioner herein declined to refund the said amount.

The learned counsel for the petitioner submits that the present dispute is entirely a dispute of civil nature and the remedy of the complainant lies before a court of competent jurisdiction. However, the said sum of Rs. 17 lacs has already been given to the complainant.

The learned counsel for the informant has submitted that the intention of the petitioner herein was to deceive the complainant from the very beginning and infact, he had given him two cheques for a sum of Rs. 7 lacs and Rs. 10 lacs respectively, which are appended to the counter affidavit filed by the opposite party no. 2, however, the said cheques were not honoured by the Bank of the petitioner since it was stated that the said account had already been closed.

I have perused the material and heard the parties. I find that the present case *prima facie* is a case of civil dispute arising out of contractual obligations for which, the criminal case may not be an appropriate remedy. It is also found from the aforesaid cheques of Rs. 7 lacs and Rs., 10 lacs respectively, which have been appended to the counter affidavit that they are undated and no name has been mentioned on the same. If the complainant was so sanguine about his bonafides, he ought to



have deposited the said cheques in his account but having not done so and approached this Court after a lapse of several years from the date of actual cause of action, it appears that there is something more than what meets the eye.

Having regards to the facts and circumstances of the case, I deem it fit and appropriate to admit the petitioner to the privilege of anticipatory bail. Accordingly, the abovenamed petitioner, in the event of his arrest or surrender before the court below within a period of six weeks from the date of receipt/ production of a copy of this order, is directed to be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Rs. Ten thousand) with two sureties of the like amount each to the satisfaction of 1st Chief Judicial Magistrate, Danapur in connection with complaint case no. 599(c) of 2015 subject to the conditions as laid down under Section 438(2) of Code of Criminal Procedure.

(Mohit Kumar Shah, J)

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