

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.59408 of 2017

Arising Out of PS.Case No. -457 Year- 2013 Thana -PATNA COMPLAINT CASE District-
PATNA

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1. Ashwini Kumar, son of late Chandeshwar Prasad, resident of Mohalla-
Gabhtal, Danapur, P.S.- Danapur, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sumit Kumar Verma, son of late Surendra Kumar @ Satyapal Verma,
permanent resident of Gabhtal Akhara Road, P.S.- Danapur, District-
Patna, at present residing at Mohalla- Nakhas Pind, P.O.- Begumpur,
P.S.- Malsalami, Patna City, District- Patna.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Lakshmi Kant Sharma, Advocate

For the Opposite Party/s : Mr. Mukeshwar Dayal, APP
Mr. Sanjay Kumar, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

5/ 12-02-2018

Heard learned counsel for the petitioner and learned

APP for the State as well as counsel for the Opposite Party No.2.

Petitioner apprehends his arrest in **Complaint Case**
No.457-C of 2013 instituted for the offence under Section(s)
420,467, 468, 471, 120-B, 209 , 210 Indian Penal Code.

Allegation in the Complaint Petition is that Late
Surendra Kumar @ Satyapal Verma was one of the sons of late
Chandeshwar Prasad. Title Suit No.112 of 1986 was instituted by
Satyendra Kumar @ Rajeev Ranjan for partition of family
property without impleading father of the Complainant as party
though he being the son of late Chandeshwar Prasad was co-



parcener and legal heir of late Chandeshwar Prasad. After filing of the suit, same was compromised on 22.05.1987 and the petitioner, who has been named as defendant along with his father, got compromise decree without the knowledge of the Complainant and his father. It is further alleged in the complaint that the Complainant learnt about the fraudulent act in the year 2006 and thereafter Misc. Case No.04 of 2006 was filed by the family of the Complainant before the learned Sub Judge II, Patna, for setting aside the compromise decree passed in Title Suit No.112 of 1986, which was allowed. The petitioner then moved Hon'ble Court in Civil Revision No.769 of 2010, which was dismissed. Thereafter, SLP was also filed in the Hon'ble Apex Court, which was also dismissed. Present complaint has been filed by the Complainant making allegation that title suit was filed only with a view to deprive the Complainant and his family members from his rightful share in the property.

Counsel for the Opposite Party No.2-Complainant has appeared and submitted that the petitioner has criminal antecedents. He was minor at the time of alleged compromise decree and, therefore, this anticipatory bail application is not maintainable.

It has been submitted that the Complainant is



nephew of the petitioner.

Counsel for the petitioner has submitted that all the cases, which are mentioned in para 3, have been filed by the brother of the Complainant. Counsel for the petitioner has further submitted that non-bailable warrant of arrest has already been issued against the petitioner and, therefore, he has apprehension.

This Court after looking into the complaint finds that after setting aside of the compromise decree passed by the Court on 22.05.1987, entire matter has been reopened and is pending for determination between the parties.

In this manner, civil litigation is pending between the parties as appear from the Complaint Petition itself.

In the facts and circumstances of the case, prayer of the petitioner for grant of anticipatory bail is allowed. In the event of surrender/arrest of the petitioner, named above, within six weeks from today in connection with **Complaint Case No.457-C of 2013**, he shall be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the **Additional Chief Judicial Magistrate, Danapur, Patna**, subject to the conditions as laid down under Section 438(2) Cr. P. C. with further conditions: (1) bailors should be local having



sufficient immovable property within the jurisdiction of the court concerned, (2) petitioner shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason will automatically cancel bail bond of the petitioner and (3) if 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.

(Sanjay Priya, J)

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