

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.64745 of 2018

Arising Out of PS. Case No.-2011 Year-2016 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

Mahadeo Paswan, son of Halkhori Paswan, Resident of Village- Kapasia,
Police Station - Town (Nagar), District – Begusarai.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Suresh Kumar, son of Late Dashrath Prasad, Resident of Marwari Mohalla-
Ward No. 34, P.S. Town (Nagar) (Ratanpur O.P.), District- Begusarai.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Arbind Kumar Sharma, Advocate

For the Opposite Party/s : Mr. Damodar Prasad Tiwary, APP

CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

2 13-12-2018 Heard learned counsel for the petitioner, State and the
informant.

The petitioner seeks pre-arrest bail in connection with
Complaint Case No.2011 of 2016 registered under Sections 323,
341, 384, 420, 468, 467, 471, 504 and 406/34 of the Indian
Penal Code.

It is submitted by the learned counsel for the
petitioner that even if the entire allegations made in the
complaint are taken to be true, no offence either under Section
406 or any other provision of the Penal Code would be made
out. He has placed reliance on the judgment of the Supreme
Court in the matter of **Murari LaL Gupta vs. Gopi Singh** since
reported in (2005) 13 SCC 699. He further contended that
there is no truth behind the allegation that after taking rupees



one lac fifty thousand as advance, the petitioner refused to execute the sale deed.

On the other hand, learned counsel for the complainant vehemently opposed the application for grant of pre-arrest bail to the petitioner. He submitted that merely because summons has been issued it cannot be said that there is apprehension of arrest and, thus, the application under Section 438 of the Code of Criminal Procedure would not be maintainable.

Considering the facts and circumstances of the case and the submissions advanced on behalf of the parties, in the event of arrest or surrender before the court below within six weeks from today, the petitioner is directed to 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 learned Judicial Magistrate, 1st Class, Begusarai in connection with Complaint Case No.2011 of 2016 subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.

Md. S/-

(Ashwani Kumar Singh, J)

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