

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.59832 of 2017

Arising Out of PS. Case No.-735 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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1. Jawahar Singh son of Late Lal Bihari Singh
 2. Dharmendra Kumar @ Chotu Kumar @ Chathu Kumar son of Jawahar Singh
 3. Jitendra Kumar son of Jawahar Singh All 1 to 3 are resident of village - Govindpur (Wallmi), P.S. Phulwarisharif, District - Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Tarkeshwar Singh son of Bikram Singh resident of Shanti Niwas, Raja Bazar, P.S. - Shastri Nagar, District - Patna.

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Shaishav Kumar
For the Opposite Party/s : Mr. Sri Nagendra Prasad

CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

5 23-04-2018 Heard learned counsel for the petitioners and learned APP
for the State.

Petitioners apprehend their arrest in complaint case no. 735 (C) of 2016 instituted for the offence under Section(s) 323, 504/34 of the Indian Penal Code and Section 138 of N.I. Act. .

Learned counsel for the petitioners submits that they admit to have received an amount of Rs. 11,00,000/- (Eleven lacs) out of which they have returned an amount of Rs. 6, 35,000/- (six lacs thirty five thousand) to the informant in two equal installment(s). He has denied of having received an



amount of Rs. 4,00,000/- which is claimed by the informant to have been paid to the petitioner vide Annexure-2. In the complaint petition, it is alleged that cheque issued by the petitioner amounting to Rs. 3,50,000/- got bounced. The petitioners are ready to make payment of Rs. 3, 65, 000/- subject to final decision of the case. Counsel for the informant has no objection to such proposal of the petitioner.

In such circumstances, the application is disposed off with a direction to the petitioners to surrender before the court below i.e. Judicial Magistrate 1st Class, Patna, in connection with complaint case no. 735 (C) of 2016 within a period of four weeks from the date of receipt/production of a copy of this order along with valid receipt to show that he has made payment of first installment of Rs. 2,00,000/- (Two lacs) by way of demand draft to the informant in terms of the order of this Court and in that event the court below will release the petitioners on provisional anticipatory bail for a period of two months, 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) petitioners 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 petitioners and (3) if petitioners tamper 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 petitioners.

Thereafter, the petitioner will make payment of the remaining amount(s) i.e 1,65,000/- (one lacs sixty five thousand) by the next month and thereafter the Court below will confirm the provisional anticipatory bail of the petitioners.

It is made clear that in the event the petitioners does not surrender with valid receipt showing payment of the amount and in the event of default in making payment(s) of installments, the court below will be at liberty to pass appropriate order in accordance with law including cancellation of provisional bail of the petitioners. The payments made by the petitioners to the informant will be subject to final decision of the case.

The application is disposed off.

(Sanjay Priya, J)

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