

IN THE HIGH COURT OF JUDICATURE AT PATNA

Criminal Miscellaneous No.7932 of 2018

Arising Out of PS. Case No.-2267 Year-2015 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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Shyam Bihari Sharma, S/o Late Madan Sharma, R/o Village- Aranda, P.S.-
Uphara and District- Aurangabad.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Dina Nath Sharma S/o Muneshwar Sharma , R/o Village- Aranda P.S. -
Uphara and District- Aurangabad, presently residing at Mohalla Kabirpur
Road, Nathnagar, Bhagalpur Nagar Nigam, Boring No.2, P.S.- Nathnagar and
District- Bhagalpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Utsav Kumar, Advocate

For the Opposite Party/s : Mr. Md. Fahimuddin, APP

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA

ORAL ORDER

3 23-04-2018 Heard learned counsel for the petitioner and the State.

The petitioner apprehends arrest in Complaint Case No.
2267 of 2015, instituted for the offence under Sections
323,324,144,406,420,386 of the IPC.

It is alleged in the complaint case that complainant made
payment of Rs. 1,45,000/- in the account and cash on various
dates as mentioned at paragraph 4 of the complaint case for
purchase of the land. But the petitioner neither executed the sale
deed nor returned the amount of the complainant.

Learned counsel for the petitioner submits that he has
earlier executed sale deed on 27.12.2013 in favour of the wife of
the complainant. It has been submitted that he has received
payment for aforesaid land. The complainant is making false



claim against Petitioner.

Learned counsel for the complainant has appeared and pointed out that Annexure-4, is sale deed dated 27.12.2013, executed by the petitioner in favour of wife of the complainant, with respect to plot no. 1620 Khata No.- 114, Area- 25 decimal. It is mentioned in the aforesaid sale deed that entire consideration money has been received by the petitioner.

From the complaint petition it is apparent that the money has been paid by the complainant to the petitioner on different dates in the year 2014 after execution of earlier sale deed on 27.12.2013.

As such, this court is of the view that prima facie petitioner has received an amount of Rs. 1,45,000/- in the year 2014, for which sale deed has not been executed by the petitioner.

Learned counsel for the petitioner has submitted that he will make payment of Rs. 1,45,000/- to informant in six equal installments.

In such circumstances, the petitioner is directed to surrender before the court below in connection with Complaint Case No. 2267 of 2015, with affidavit that he is ready to make payment of Rs. 1,45,000/- to complainant in six equal installments and in that event the court below will release the petitioner on provisional anticipatory bail for a period of six months



on furnishing bail bonds of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to its own satisfaction, subject to condition as laid down under Section 438(2) of the Cr.P.C. with further conditions (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 bonds of the petitioner and (3) if the 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.

Thereafter, petitioner will make payment of entire amount of Rs. 1,45,000/- to the informant within a period of six months in equal installment and after making the payment of entire amount and producing the valid receipt the provisional bail of the petitioner will be confirmed by court below after six months.

Aforesaid payment made by the petitioner shall be subject to final decision of the case.

It is made clear that in the event, petitioner fails to make payment of single installment, his bail bond will liable to



be cancelled.

(Sanjay Priya, J)

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