

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.53860 of 2017

Arising Out of PS. Case No.-621 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

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Rahul Kumar, Son of Late Ramesh Prasad, Director of M/s Urja Automobilas Pvt. Ltd. D.S. Business Park, Shaguna More, Patna, resident of Mohalla-Makania Kuan, P.S.- Pirbahore, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sharda Devi, Wife of Mithilesh Kumar Dubey, R/o Jhumri Talaiya, P.O. & P.S. Jhumri Talaiya, Ward No. 1, District Kodarma presently residing at C/o- Sonu Singh, Behind Mangal Market, Sona Palace, Raja Bazar, P.S. Shastri Nagar, District Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Alok Kumar Agrawal
For the Opposite Party/s : Mr. SRI RAM BILASH ROY RAMAN

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

4 24-01-2018 Heard the counsel for the petitioner and the State.

The petitioner apprehends his arrest in Complaint Case No. 621 (C)/2015 instituted for the offence under Sections 379, 384, 386, 420, 467, 468, and 120B/34 of the Indian Penal Code.

It is alleged in the complaint petition that the complainant paid an amount of Rs. 9,62,422/- to the petitioner for purchase of Nissan Sunnuy XLS vehicle from Urja Automobiles for which the invoice and sale certificate were issued in favour of the complainant. But the petitioner did not deliver the vehicle to the complainant.

Counsel for the complainant has submitted that he is ready



to take back the amount which he had made through various receipts or he is ready to make payment of difference of the amount of the same car of 2018 model.

Learned counsel for the petitioner has submitted that the complainant's son was doing some contract work in his office for which he was paid advance money. The complainant has not paid money for purchase of car. All the receipts are manipulated by complainant with collusion of staff of its company.

This Court does not want to go beyond the allegation made in the complaint in the matter of anticipatory bail. The complainant has enclosed sale certificate and retail invoice along with complaint petition which show that car has been sold and sale letter has been issued by the petitioner in the name of complainant with regard to said car. The money receipts towards payment of Rs. nine lakh and odd have also been enclosed by the complainant with the complaint petition.

The petitioner submits that those money receipts are after the sale letter but it does not matter as the money has been accepted by the petitioner and receipts have been issued.

The counsel for informant has submitted that he is ready to pay the difference amount for car of 2018 model. He has also submitted that if petitioner could not provide car of 2018



model, then he is ready to receive back the amount as mentioned in the retail invoice, placed at page 33 of the petition.

In such circumstance, this anticipatory bail is disposed of with direction to petitioner to either refund the amount of Rs. 8,84,261.00 to the complainant as mentioned in retail invoice placed at page 33 of this petition or provide same car of 2018 model after receiving the difference amount, within a period of three months from the date of receipt of this order in the court below. In the event petitioner complies with the aforesaid order within a period of three months from the date of receipt of this order, the court below on surrender/arrest of the petitioner within aforesaid period will release him on anticipatory bail in connection with Complaint Case No. 621 (c) of 2015 on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to its satisfaction subject to the conditions as laid down under Section 438(2) Cr. P.C., with further conditions that (1) bailor 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 their absence on two consecutive dates



without proper and reasonable reason will be liable to cancel his bail bond 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.

In the event petitioner fails to comply with the aforesaid order within three months from the date of receipt of this order in court below, the court below will be at liberty to pass appropriate order in accordance with law without taking into consideration the aforesaid observation of this Court.

(Sanjay Priya, J)

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