

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.37621 of 2018

Arising Out of PS.Case No. -492 Year- 2017 Thana -ARA NAGAR District- BHOJPUR

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1. Binod Yadav @ Binod Rai S/o Sri Tukar Yadav, R/o Mohalla-
Ahirpurwa, P.S.- Ara Town, in the District of Bhojpur.

.... Petitioner/s

Versus

1. The State of Bihar

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prabhu Narayan Sharma, Advocate

For the Opposite Party/s : Smt. Indu Kumari Srivastava, APP

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

2 10-07-2018 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner is languishing in custody for the offences punishable under Sections 420/406/120B/504/506/34 of the Indian Penal Code.

The complaint based allegation would reveal that the dispute arose for the reason of non-performance of contract of his part by the petitioner in pursuance of agreement to sell between the parties in spite of receipt of part consideration money.

Learned counsel for the petitioner submits that the matter is of pure civil dispute and reliance has been placed on the case of **Murarilal Gupta V. Gopi Singh (2005) 13 SCC 699**, for submission that merely because the petitioner had failed to



honour the agreement, it cannot be said that he had cheated the respondent.

Learned counsel for the informant opposed the prayer for bail and relied on an order of this Court passed in Cr. Misc. No.22635 of 2012 on 25.06.2012. The said order reveals that the petitioner of that case was ready to refund the consideration money in installments and, accordingly, the Court allowed the said petitioner to refund the consideration money and granted bail to the petitioner of that case on that undertaking. Learned counsel for the informant has relied on Cr. Misc. No.37227 of 2016, **Sheo Shankar Singh V. The State of Bihar**, whereby bail was granted in similar circumstances to the accused on 28.10.2016 by a Bench of this Court.

Considering the nature of allegation, which is redressable in a duly constituted civil proceeding, let the petitioner, above named, be released on bail on furnishing bail bond of Rs.20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of the learned Court-below where the case is pending in connection with Ara Town P.S. Case No.492 of 2017, with following conditions:

(a) Both the bailors shall be the resident of territorial jurisdiction of the learned Court-below.



(b) The petitioner shall fully cooperate with the investigation/trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Kumar, J)

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