

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.2820 of 2018

Arising Out of PS.Case No. -496 Year- 2017 Thana -WEST CHAMPARAN COMPLAINT District-
WESTCHAMPARAN(BETTIAH)

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Kailash Mahto son of Late Radha Mahto resident of village - Hardi
Belahwa, P.S. - Matiyaria, District - West Champaran.

.... Petitioner

Versus

1. The State of Bihar.

2. Munna Mukhiya son of Late Jalim Mukhiya resident of village - Hardi
Belahwa, P.S. - Matiyaria, District - West Champaran.

.... Opposite Party

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Appearance :

For the Petitioner/s : Mr. Umesh Chandra Verma

For the Opposite Party/s : Mr. Sri Nand Kumar

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CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

2. 12-02-2018

Heard learned counsel for the petitioner,

learned counsel representing the complainant and learned

Additional Public Prosecutor for the State.

The petitioner apprehends his arrest in
relation to Trial No. 2330 of 2017 arising out of Complaint
Case No. 496-C of 2017 registered under Sections 406 and
323 of the Indian Penal Code.

Allegation against the petitioner is that he
has received a sum of Rs. 1,67,000/- in his account from
the informant on the pretext of transferring a land
measuring four kathas for a total consideration amount of
Rs. 2,40,000/-. The petitioner also received Rs. 73,000/- as



alleged in cash towards the consideration for sale of land.

Learned counsel for the petitioner submits that even though he is not disputing of Rs. 1,67,000/- in his account, he has disputed receipt of Rs. 73,000/- as alleged by the complainant. He has pointed out from Annexure-2 which is a copy of complaint petition said to have been filed by the present petitioner to show that according to this petitioner the informant had taken some friendly loan and he had returned the money only on that account.

On the other hand, learned counsel representing the complainant opposed the prayer for bail and submitted that the petitioner is not entitled to get the privilege of anticipatory bail inasmuch as a sum of Rs. 1,67,000/- has admittedly been received by him in his account which he is not ready to refund. The sale deed has also not been executed by the petitioner.

After some argument, learned counsel for the petitioner submits that the petitioner undertakes to refund a sum of Rs. 1,67,000/- which has been received by him in his account from the complainant. He is ready to pay the entire amount of Rs. 1,67,000/- in two equal installments



to the complainant, the first installment shall be paid within 7 days from the date of receipt of this order and the next installment shall be paid within the next two months from the date of payment of first installment. This will be subject to the result of the case.

Learned counsel for the complainant is present and accepts that in such circumstances he will have no objection if the petitioner is allowed Anticipatory Bail at this stage.

Considering the facts and circumstances particularly the undertaking given by the petitioner through his lawyer as stated above, in the event of his arrest/surrender before the court below within four weeks, subject to the fulfillment of the conditions of paying Rs. 83,500/- within seven days from today, let the above named petitioner, namely, Kailash Mahto, be provisionally enlarged on bail on furnishing bail bonds of Rs. 15,000/- (fifteen thousand only) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, 1st Class, Bettiah, West Champaran, in connection with Trial No. 2330 of 2017 arising out of



Complaint Case No. 496-C of 2017, subject to condition laid down under Section 438 (2) of the Code of Criminal Procedure.

The court below shall confirm the anticipatory bail of the petitioner only after final installment is paid.

(Rajeev Ranjan Prasad, J.)

Rajeev/-

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