

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.45831 of 2017

Arising Out of PS.Case No. -211 Year- 2016 Thana -PIRBAHOR District- PATNA

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1. Md. Asif Ahsan @ Asif Ahasan @ Ashif Ahasan, Son of Late Saiyad Md. Usuf, resident of Piplawan, P.S.- Naubatpur, District- Patna, at present resident of Sabjee Bagh, Jamun Gali, A to Z Hotel, P.S.- Pirbahore, District- Patna.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Muzahid Imam, son of Sri Afzal Imam Khan, resident of village-Sanoli, P.S.-Masharak, district-Chhapara (Saran)

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Uday Prasad, Advocate

For the Opposite Party/s : Mr. Sanjay Kumar Tiwary 1, APP

Mr. Anil Kumar Singh No.6, Advocate

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

5/ 01-02-2018

Heard learned counsel for the petitioner and learned

APP for the State as well as counsel for the Opposite Party No.2.

Petitioner apprehends his arrest in **Pirbahor P.S.**

Case No.211 of 2016 instituted for the offence under Section(s) 406, 420, 120-B Indian Penal Code and Section 138 of the Negotiable Instruments Act.

It is alleged in the written report that the informant paid rupees twelve lac to this petitioner through different cheques and cash for purchase of two kattha land. First agreement was executed between petitioner and the Opposite Party No.2 on 23.12.2013 and the petitioner accepted rupees twelve lac and gave assurance that the property is free from all litigation. Copy



of the agreement dated 23.12.2013 has been annexed as Annexure-A to the Counter Affidavit. It is further submitted that Opposite Party No.2 has further paid rupees three lac through cheque to the petitioner, as advance money, which was received by the informant. Copy of the bank statement showing receiving of rupees three lac by the petitioner has been annexed as Annexure-D to the Counter Affidavit.

Supplementary Affidavit has been filed by the petitioner stating that he has already returned rupees six lac to the informant by different cheques as mentioned in para 5 of the Supplementary Affidavit.

Counsel for the informant-Opposite Party No.2 admits about receiving of the aforesaid amount from the petitioner. He submits that rupees nine lac is still due with the petitioner, which he has received after entering into agreement with the informant as mentioned in Annexure- A and D to the Counter Affidavit, which is the bank statement showing that rupees three lac was further paid to the petitioner for purchase of different land as the first land for which agreement was entered was not found in possession of the petitioner.

In such circumstances, this application is disposed off with direction to the petitioner to surrender within before the



Court below i.e. **Chief Judicial Magistrate, Patna**, in connection with **Pirbahor P.S. Case No.211 of 2016** within a period of four weeks from the date of receipt of copy of this order showing valid receipt with regard to payment of rupees two lac to the Opposite Party No.2-informant along with Affidavit that he will make payment of the remaining amount i.e. rupees seven lac in two equal installment within a period of next six months from the date of release and in that event the Court below will release the petitioner on provisional anticipatory bail for six months on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each 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) 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 bond of the petitioner 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.

After making full payment of rupees nine lac to the Opposite Party No.2-informant, provisional bail of the petitioner



will be confirmed.

It is made clear that if the petitioner fails to make payment of the amount within six months from his release, his bail bond will be liable to be cancelled.

Aforesaid payment to the Opposite Party No.2- Informant by the petitioner will be subject to final decision of the case.

(Sanjay Priya, J)

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