IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.1986 of 2018

Arising Out of PS. Case No.-79 Year-2017 Thana- GOPALGANJ COMPLAINT CASE District- Gopalganj

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Ramayan Kumar @ Ramain Kumar, S/o Late Bhinu Shah, R/o Village Karnpura, P.S.- Manjhagarh, District- Gopalganj, presently residing at Ganesh Marble, Yadavpur Road, Gopalganj.

... ... Petitioner/s

Versus

1. The State of Bihar.
2. Narayan Prasad Shah, S/o Late Bhinu Shah, R/o Village- Karnpura, P.S.- Manjhagarh, District- Gopalganj.

... ... Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Awadhesh Kumar, Adv.
For the Opposite Party/s : Mr. J. N. Thakurr, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

2 16-01-2018 Heard learned Counsels for the petitioner and learned APP for the State.

The petitioner is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Section 406 of the Indian Penal Code.

Prosecution case as per the complainant is that he executed a sale deed with regard to a certain piece of land in favour of one Mina Devi for consideration amount of Rupees Eighteen Lacs, out of which, he received Rupees One Lac in

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advance and handed over Rupees Seventeen Lac to the petitioner, who was witness to the sale deed, for carrying it to home, when the complainant demanded the said money, the petitioner refused to return the same.

It is submitted by learned counsel for the petitioner that there is no proof with regard to entrustment of money and when no entrustment is *prima facie* found, no case under Section 406 of the I.P.C is made out. It is further submitted that the petitioner and the informant are step-brothers. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

However, learned Counsel for the complainant submits that the petitioner has given in writing that he will return the said amount, hence, in view of the said, *prima facie*, entrustment is there.

Considering the nature of accusation, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, let the above named petitioner be released on anticipatory bail, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount

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each to the satisfaction of the learned ACJM-XII, Gopalganj, in connection with Complaint Case No.79 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

Ashwini/-

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