

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.21871 of 2018

Arising Out of PS. Case No.-801 Year-1995 Thana- PATNA COMPLAINT CASE District-
Patna

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Md. Shamim S/o Late Md. Usman, R/o Mohalla- Khalilpur, P.S.-
Phulwarisharif, District- Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Shahabuddin Azeem @ S. Azeem
For the Opposite Party/s : Mr. J.N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 27-06-2018 Heard learned counsels for the parties.

The matter has been listed under the heading ‘For Orders’ since certified copy of the impugned order dated 18.8.2012 passed in ABP No. 3354 of 2012 by the learned Sessions Judge, Patna is not available, hence, it was directed that the present application be placed along with the records of Cr. Misc. No. 37931 of 2012, wherein the same was available, but it appears that in the said record also, only order dated 4.10.2012 passed by this Court is available and rest part of the records have been destroyed.

It is submitted by learned counsel for the petitioner that the impugned order is also not available in the court below hence, xerox copy of the same has been filed.



In the circumstances, the matter is being taken up on merits on the basis of xerox copy of the impugned order.

The petitioner has renewed his prayer for anticipatory bail in connection with Complaint Case No. 801C of 1995 wherein process was directed to be issued after cognizance being taken for the offences punishable under sections 406,417,418,420 and 120B of the IPC.

The prosecution case as per the complainant is that co-accused Teyyeb Md. Ansari was Secretary of New Millat Sahkari Grih Nirman Samiti Limited, Phulwarisharif and the petitioner was the President of the same. For the purpose of purchasing 2 kathas 10 dhur land from the accused persons, complainant issued two cheques of Rupees Twenty Five Thousand each on 31.8.1991 and 16.11.1991 respectively for which the petitioner gave receiving but neither the land was transferred in favour of the wife of the complainant nor the money was returned.

It is submitted by learned counsel for the petitioner that even assuming the accusation, no personal liability is made out, however, the petitioner is ready to return the amount involved.

It appears that the complaint was filed in 1995, the



petitioner moved for grant of anticipatory bail before the learned Sessions Judge, Patna in 2000 though the said application was rejected. Thereafter, the petitioner renewed his prayer after twelve years in 2012 when it was rejected on 18.8.2012 by the learned Sessions Judge, Patna vide ABP No. 3354 of 2012. Against the said order the petitioner preferred Cr. Misc. No. 37931 of 2012 before this Court but this Court also declined to grant bail since the complaint was filed in 1995. However, the said application was disposed of vide order dated 4.10.2012 with a liberty to the petitioner to surrender within six weeks and pray for regular bail. Hence, on the said ground alone, this Court was not inclined to revise the earlier order.

Now, since the petitioner has renewed his prayer with no fresh ground except the fact that the petitioner is ready to return the amount involved, this Court is not inclined to interfere.

This Court is dismayed to find the manner in which the petitioner in a Complaint case filed in 1995, preferred an application for grant of anticipatory bail in 2000 and in 2012 before the learned court below as well as before this Court and thereafter after six years, again the same prayer has been renewed in 2018.



Accordingly, this Court is not at all inclined to interfere in the matter. However, if the petitioner surrenders within a period of four weeks before the learned J.M. Ist Class, Patna in connection with Complaint Case No. 801C of 1995, the learned court below will consider the prayer of the petitioner for regular bail keeping in view the fact that the petitioner is ready to return the amount involved.

With the aforesaid observation/direction, this application is disposed of.

(Dinesh Kumar Singh, J)

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