

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**Criminal Miscellaneous No.43406 of 2018**

Arising Out of PS.Case No. -131 Year- 2017 Thana -PATNA COMPLAINT CASE District-  
PATNA

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Arun Kumar Gupta Son of Bal Kishun Gupta, resident of Mohalla- Gupta  
Market, P.O.- Anisabad, P.S.- Gardanibagh, District- Patna.

.... .... Petitioner/s

Versus

1. The State of Bihar.
2. Chandra Mohan Jha, aged about 52 years, son of Ramakant Jha, resident  
of Flat No. 40/B, Block, Sunrise Narayan Place, P.S.- Rupashpur, District-  
Patna.

.... .... Opposite Party/s

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**Appearance :**

For the Petitioner/s : Mr. Shyama Kant Singh, Adv.

For the Opposite Party/s : Mr. Sri Umeshnand Pandit, APP

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**CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI**  
**ORAL ORDER**

**3 10-09-2018**

Heard learned counsel for the petitioner as well  
as learned Additional Public Prosecutor.

O.P. No.2/complainant had filed complaint  
petition disclosing the fact that the accused persons so  
named therein ask for money in the background of family  
requirement and for that, offered to sale land bearing  
Khesra No.374 Area 69 decimal. After finalization of the  
deal, ask for rupees eleven lacs, on account of being under  
urgent requirement. He has further stated that when he  
demanded the relevant documents relating thereto, both  
the sons produced photocopy. He had also seen the plot  
which was in a form of ditch. He had further stated that



on 04.07.2011 accused persons came, demanded rupees eleven lacs as an earnest money which they received after executing the deed of agreement. Then thereafter, time-to-time accused persons realized the amount which, for the present happens to be ninety-one lacs while the complainant had incurred rupees fifty lac expenses in filling of the land. Then thereafter, they adopted dilly delaying tactics in getting the sale deed registered. Subsequently, the complainant came to know that accused persons are not in possession of actual area and further, litigation is going on relating thereto which, the accused persons admitted. It has also been asserted that as accused persons were not in position to refund the amount on account thereof, the complainant began to take all possible legal steps in order to resolve the dispute and for that, even advocate notice was served upon the accused persons. Accused persons accepted in their reply that they have received the amount but, again made evasive averments. They have also threatened that they are not going to oblige on the rate so agreed.

Learned counsel for the complainant O.P. No.2 is present. He has submitted that although he has got no document to encircle the petitioner as, petitioner has got



no presence over document in question either as an executant or as a witness or identifier, but the facts remain that he along with his brother is the person looking after affair of their father who is old, in firm aged about 90 years and they are the person who procured money after duping the innocent buyers. Furthermore, it has also been submitted that father of the petitioner had filed Zamabandi Cancellation Case No.1/2014-15 wherein the parties have admitted possession of the complainant over the land under question. Because of the fact that there happens to be intentional fraudulent activity at the end of the petitioner in connivance with his brother to misappropriate the amount, on account thereof, petitioner does not deserve anticipatory bail.

On the other hand the learned counsel for the petitioner has submitted that under Partition Suit No.11/2003 petitioner's share to the extent of 1/4<sup>th</sup> has been carved out vide judgment dated 14.11.2007 which happens to be Annexure-2 but no document relating to preparation of preliminary decree as well as final decree has been filed on the other hand it has been stated that same has not been prepared and that speaks about the conduct of the petitioner.



Accordingly, prayer for anticipatory bail is rejected.

(Aditya Kumar Trivedi, J.)

Prakash Narayan

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