

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.15281 of 2018

Arising Out of PS.Case No. -461 Year- 2017 Thana -BIHTA District- PATNA

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Bhim Kumar @ Hemant Kumar, S/o Ram Ugrah Prasad, R/o Village-
Jamunapur, P.S.- Bihta, District- Patna.

.... Petitioner/s

Versus

The State of Bihar

.... Opposite Party/s

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Appearance :

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

For the informant : Mr. Gopal Govind Mishra, Advocate.

For the Opposite Party/s : Mr. Uma Shankar Prasad Singh, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

3 23-04-2018 Heard learned counsel for the petitioner, learned
counsel for the informant and the State.

The petitioner apprehends his arrest in **Bihta P.S.**
Case No. 461 of 2017 instituted for the offence under Sections
406 and 420 of the Indian Penal Code.

It is alleged in the written report that informant
entered into an agreement for purchase of land on total
consideration amount of Rs.3,90,000/-. The informant paid
Rs.1,70,000/- to the petitioner and agreement paper was prepared
on non-judicial Stamp of Rs.1,000/-. The petitioner put his
signature in presence of witnesses. Subsequently, the informant
learnt that land for which the agreement was entered into between
them, has already been sold by the petitioner to one another



person. Thereafter, the informant made request to return the money but the petitioner avoided to give money of the informant.

Learned counsel for the informant has submitted that total sum of Rs.1,70,000/- has been paid to the petitioner by him, for which, petitioner has given receiving on the original agreement paper which has been produced at the time of hearing of the bail petition.

Learned counsel for the petitioner has submitted that in Xerox copy of the agreement paper, only an amount of Rs.50,000/- is shown to have been received by the petitioner.

This Court finds that in the original agreement paper it is clearly mentioned that an amount of Rs.1,70,000/- has been received by the petitioner from the informant.

Therefore, this application is disposed off with direction to the petitioner to surrender in the court below i.e. **learned Additional Chief Judicial Magistrate, Danapur**, within a period of six weeks from the date of receipt/production of a copy of this order along with an affidavit that he will make payment of Rs.1,70,000/- to the informant by Demand Draft in five equal installments and in the event petitioner at the time of his surrender makes payment of 1st installment by way of Demand Draft and produce valid receipt showing payment of 1st installment, the court



below will enlarge the petitioner on provisional anticipatory bail to its own satisfaction for a period of four months in connection with **Bihta P.S. Case No. 461 of 2017** 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.

Thereafter, the petitioner will make payment of remaining amount within a period of four months in equal monthly installments by 15th of every month. After making full payment of Rs.1,70,000/- and on producing valid receipts showing payment of the entire amount to the informant by way of demand draft, the court below will confirm the provisional anticipatory bail of the petitioner after four months.

It is made clear that in the event petitioner makes default in making payment of any single installment as ordered above, the court below will be at liberty to pass appropriate order



in accordance with law including cancellation of provisional
anticipatory bail granted to the petitioner.

S.Ali/-

(Sanjay Priya, J)

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