

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.50433 of 2018

Arising Out of PS.Case No. -4614 Year- 2017 Thana -PATNA COMPLAINT CASE District-
PATNA

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Jitendra Kumar, S/o Lala Rai, Resident of Village - Bela, P.O. - Neura, P.S.
- Bihta, District - Patna, State Bihar.

.... Petitioner/s

Versus

1. The State of Bihar.
2. Sanjeev Rai @ Sanjiv Raj, S/o Rajendra Prasad Sinha, Proprietor S.D.
Construction and Developer B-331 Mitra Mandal Colony, Anisabad,
P.O. Anisabad, P.S.- Phulwari Sharif, District- Patna, State- Bihar.

.... Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Jitendra Sharma

For the Opposite Party/s : Mr. Bharat Lal

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CORAM: HONOURABLE MR. JUSTICE BIRENDRA KUMAR
ORAL ORDER

3 04-10-2018 Heard learned counsel for the petitioner and learned
Additional Public Prosecutor for the State.

The petitioner is apprehending his arrest in a case
registered for the offences punishable under Sections 406 and 420
of the Indian Penal Code.

The complainant, who is a builder, had entered into
an agreement with the petitioner to purchase 5 Bighas, 10 Kathas
of land which was not of the petitioner. The aforesaid fact is
admitted in the solemn affirmation by the complainant that land
was shown by the petitioner but he did not arrange meeting with
the land owner. On the basis of that agreement, the complainant



allegedly paid crores of rupees to the petitioner and most of the amounts were paid in cash and receiving was shown on the agreement paper. Later on, the land was not transferred. Hence, complainant found himself cheated.

Now the whole question is whether the complainant can enforce the agreement in a duly established civil proceeding. The answer is no for the reason that the complainant entered into an agreement to purchase property with a person who did not have title on the property.

Learned counsel for the petitioner submits that the entire allegation is false and fabricated one, just to harass the petitioner. The RTGS payment is referred in the account which is not of the petitioner nor the petitioner has any bank account in the referred bank of Khagual Branch. Even if entire allegation is accepted as true, prima facie, no offence is made out to compel the petitioner to go to jail.

Hence, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of thirty days from the date of receipt of the order, be released on bail on furnishing bail bond of Rs.20,000/- (rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court below where the case is pending in connection with



Complaint Case No. 4614(C) of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure as well as condition that the petitioner shall fully cooperate with the investigation and trial of the case, failing which the court below shall be at liberty to cancel the bail bond of the petitioner.

(Birendra Kumar, J)

Kundan/Rajan

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