

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.21787 of 2019**

Arising Out of PS. Case No.-1315 Year-2018 Thana- PATNA COMPLAINT
CASE District- Patna

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SANTOSH TIWARY, male, aged about 31 years, Son of Ramakant Tiwari
Resident of Mohalla- Shivpuri, Jagriti Path, House of Shankar Ram, P.S.-
Gardanibagh, District- Patna

... .. Petitioner

Versus

1. The State of Bihar
2. Ram Pravesh Prasad Son of Sri Babuchand Prasad Resident of Mohalla-
Shivpuri Anishabad, P.S.- Gardanibagh, Patna- 800002.

... .. Opposite Parties

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Appearance :

For the Petitioner : Mr. Arun Kumar Singh, Advocate.

For the Informant : Mr. Suraj Narain Yadav

Ms. Annu Shree, Advocate.

For the Opposite Party: APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN

ORAL ORDER

3 19-07-2019 Heard learned counsel for the petitioner and learned
APP for the State.

2. The petitioner apprehends his arrest for the offences
alleged under Sections 420 and 406 of the Indian Penal Code
registered in connection with Complaint Case No. 1315(C) of
2018.

3. It is submitted that the petitioner has been falsely
implicated and as a matter of fact the petitioner who was the
tenant of the informant had lodged an informatory petition on
26.03.2018 (Annexure-2), with regard to alleged misbehaviour
by the informant with the petitioner's wife. The instant complaint



has been filed thereafter on 03.04.2018. It is submitted that the prosecution story is highly doubtful in nature considering that the land in question belonged to the mother of the petitioner and the alternative land belonged to his brother-in-law. As such the petitioner was not competent to sell or deliver either land to the complainant. A specific stand has been taken that the so-called agreement dated 27.12.2017 in which the petitioner is said to have acknowledged having received payment of Rs. 7,06,000/- bears his forged signature. The said document itself is of doubtful nature as it does not contain the signature of the complainant and cannot be treated as an agreement. It is further submitted that the petitioner is a labourer and it is unlikely that the complainant would have paid an amount of Rs. 7,06,000/- to him without proper verification and check. It is further submitted that in any event the dispute between the parties is in the nature of civil dispute at the highest. The petitioner claims clean antecedents.

4. Learned counsel for the complainant submits that the agreement dated 27.12.2017 clearly discloses that the petitioner had been paid an amount of Rs. 7,06,000/- but he did not transfer the land to the complainant as promised.

5. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named



petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Additional Chief Judicial Magistrate- XIV, Patna in connection with Complaint Case No. 1315(C) of 2018, subject to the conditions as laid down under Section 438 (2) Cr.P.C., and also subject to the following further conditions -

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) That the petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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