

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24194 of 2019

Arising Out of PS. Case No.-1706 Year-2015 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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LALCHAND MANDAL S/o - Late Sachidanand Mandal @ Sakhichand Mandal, Resident of Vill.- Singhnan Joharachak, P.S.- Jagdishpur, Distt.- Bhagalpur.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Amjad Ali, S/o- Md. Chand Kausar, Resident of Vill.- Badare Aalampur, Karori Bajar, P.S.- Habibpur, Distt.- Bhagalpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Anil Kumar Choudhary
For the Opposite Party/s : Mr.Zainul Abedin

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CORAM: HONOURABLE MR. JUSTICE SUDHIR SINGH
ORAL ORDER

4 28-06-2019 The petitioner was granted provisional bail by order dated 18.04.2019. From perusal of the said order, it evident that following submissions were made on behalf of the petitioner in paragraph 4 of the order:

“Learned counsel for the petitioner submits that from the perusal of the impugned order, it appears that before the learned court below the petitioner along with other accused had admitted for payment of entire Rs. 5,81,000/- and one co-accused Girdhari Lal Mandal had also paid Rs. 50,000/- thereafter no payment was made neither they appeared in the said complaint case and the petitioner surrendered on 04.01.2019. Petitioner submits that he bears no criminal antecedent and is ready to settle the matter.”

In the penultimate paragraph of the said order,



following submission was made on behalf of the petitioner:

“Learned counsel for the petitioner submits that he has to arrange the funds and which could not be possible while he is in custody.”

On the basis of said submission, following direction was made by Co-ordinate Bench:

“Under such circumstance, let the petitioner abovenamed be enlarged on provisional bail for a period of three months from today and would appear before this Court on 13th May, 2019 i.e. the next date fixed so that steps may be taken for compromising the matter between the parties on furnishing bail bond of Rs. 10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate-XIII, Bhagalpur in connection with Complaint Case No. 1706 of 2015.”

Thereafter, when the matter was taken up on 13.05.2019, following observations were made by the Co-ordinate Bench:

‘Petitioner was granted provisional bail on 18.04.2019 for a period of three months. There was certain dispute regarding transfer of land for which petitioner and others had taken advance of Rs. 5,81,000/-. On investigation the complainant found that the land was sold to other persons by various other sale transaction and when he went to the petitioner for refund of his money of Rs. 5,81,000/- paid on various dates, the petitioner along with other co-accused threatened and turned the complainant out. While granting provisional bail on 18.04.2019, petitioner was



directed to arrange money and make payment as he had undertaken that entire amount would be paid the complainant by the petitioner and other co-accused. Co-accused Girdhari Lal Mandal had paid Rs. 50,000/- to the petitioner earlier, which figures in the impugned order. Today, when the matter is called out, counsel for the petitioner submits that he would take six months to make payment of what he had taken from the complainant. No amount has been produced to be given to the complainant, who has appeared as Opposite Party No. 2.

Considering the aforesaid, provisional bail granted to the petitioner under order dated 18.04.2019, passed in the instant case, is cancelled. Petitioner is directed to surrender before the learned court below tomorrow (14.05.2019) in connection with Complaint Case No. 1706 of 2015, pending in the court of learned Addl. Chief Judicial Magistrate-XIII, Bhagalpur and file surrender certificate before this Court on 15.05.2019.”

In pursuance to the order dated 13.05.2019, the petitioner was directed to surrender in the court below and file surrender certificate before this Court.

Counsel for the petitioner is present. Neither surrender certificate has been filed on behalf of the petitioner in compliance with order dated 13.05.2019 nor any application has been filed on behalf of the petitioner explaining the reasons for not complying with the order dated 13.05.2019.

Considering the aforesaid facts and circumstances, it is directed that the Court below will take all necessary steps to



issue process against the petitioner and ensure his appearance in the Court below. The Superintendent of Police, Bhagalpur will ensure that if any process is issued against the petitioner, the same should be complied with and the petitioner be produced before the Court below.

With the aforesaid observation and direction, the present application stands dismissed.

Let a copy of this order be communicated to the Senior Superintendent of Police, Bhagalpur also.

(Sudhir Singh, J)

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