

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.24521 of 2019

Arising Out of PS. Case No.-1184 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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Vishnu Dayal, aged about 27 years, male, Son of Late Parmeshwar Singh,
Resident of Village-Jangali Tola, P.S.-Maner, District-Patna.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Harendra Rai, aged 42 years, Male, Son of Late Sangam Lal Rai, Resident
of Village-Gyaspur, P.S.-Maner, District-Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr. Rajesh Kumar, Adv.
For the Opposite Party/s :	Mr. Pranav Kumar, APP.
For O.P. No. 2.	Mr. Rajeev Ranjan Singh, Adv. Mr. Ganesh Prasad Yadav, Adv.

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

8 25-10-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State as well as O.P. No. 2.

The petitioner apprehends his arrest in connection
with Complaint Case No.1184(c) of 2018 in which cognizance
under Section 406 of I.P.C has been taken against the petitioner.

The allegation against the petitioner is that on
02.12.2013 the petitioner entered into an agreement for
transferring four (4) Katha ten (10) dhur land @ 3,50,000/-per
katha with the complainant situated in Thana no. 33 and as per
the agreement the sale deed was to be executed within six
months. It has further been alleged that complainant paid total



Rs. 13,50,000/- to the petitioner and another but the petitioner refused to execute the sale deed as per the agreement and also did not return the amount paid by the complainant.

Learned counsel appearing for the petitioner submits that the petitioner has not committed any offence in the manner alleged inasmuch as the dispute between the parties give rise to civil dispute and no criminal offence is made out. Learned counsel further submits that the money which has allegedly been paid to the petitioner is denied and the petitioner only accepts that he has received a sum of Rs. 2,00,000/- which he is ready to pay to the complainant.

On the other hand, learned counsel for the complainant referring to the agreement along with counter affidavit submits that the total sum of Rs. 10,50,000/- has been paid by the complainant under receipt given by the petitioner on the back page of the agreement and the denial by the petitioner that he has only received 2,00,000/- rupees is nothing but in order to misappropriate the amount given by the complainant to the petitioner.

It appears that this Court by order dated 24.07.2019 has recorded the undertaking of the petitioner that the petitioner is ready to refund the amount received from the complainant in



installment. However, this Court had directed to opposite party no.2 to file counter affidavit bringing on record details of payment made by the complainant and received by the petitioner. O.P. No.2 has filed counter affidavit showing the details of payment made by the complainant to the petitioner under his signature which comes to Rs. 10,50,000/-

Having heard learned counsel for the petitioner and taking into consideration the fact that the petitioner has received a sum of Rs. 10,50,0000/- under his signature as evident from the back page of the agreement for sale and the petitioner is not ready to refund the amount in question in favour of the complainant, I am not inclined to exercise my discretion to grant anticipatory bail.

This application is, accordingly, rejected.

(Anil Kumar Sinha, J)

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