

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.27855 of 2019

Arising Out of PS. Case No.-664 Year-2016 Thana- MADHUBANI COMPLAINT CASE
District- Madhubani

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Ram Lakhan Sahu @ Ram Lakhan Sah, S/o Late Jhari Lal Sahu R/o village-
Araria Sangram. P.S.- Jhanjharpur, District- Madhubani

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ashique Illahi @ Ashik Ilahi S/o Md. Mazloom R/o village- Malichham
Tola Rahikan, P.S.- Jhanjharpur, District- Madhubani

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Manoj Kumar Jha

For the Opposite Party/s : Mr.Md. Aslam Ansari

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA

ORAL ORDER

5 07-08-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

Petitioner apprehends his arrest in connection with
C.R. Case No.664 of 2016 (Enquiry No.47/2016) for the offence
punishable under Sections 406, 420 and 120(B) of the Indian
Penal Code and Section 138 of N.I. Act.

The allegation against the petitioner, as mentioned in
the complaint is that in the year 2014, petitioner along with his
brother had come to the house of the complaint and assured him
to execute a sale deed of land in his favour upon payment of
Rs.10 lakhs. It has further been alleged that the petitioner
executed only 1 katha 3 dhur land of the value of Rs.5,41,200/-



and remaining amount of Rs.4,58,000/- was to be returned to the complainant by the petitioner. It has further been alleged that in refund of that amount, two cheques of Rs. 2 lacs and Rs.1,75,000/- having total of Rs.3,75,000/- was given by this petitioner in favour of complainant which subsequently bounced due to insufficient fund.

Mr. Manoj Kumar Jha, learned counsel appearing for the petitioner submits that petitioner has falsely been implicated in this mala fide complaint inasmuch as taking into consideration the allegation made in the complaint to be correct at best an offence under 138 of NI Act is made out against the petitioner and no offence under Section 406 and 420 is made out. Learned counsel further submits that the allegation made against the petitioner is baseless and the petitioner has already executed a sale deed in favour of the complainant against the amount which was paid by the complainant in favour of the petitioner and his brother.

On the other hand, Mr. Ram Chand Jha, learned counsel appearing for complainant vehemently opposed the prayer for bail and submits that total amount of Rs. 10 lakh was taken by the petitioner and his brother for the purpose of executing the sale deed but only land of the value of



Rs.541200/- has been executed and rest amount has not been paid by the petitioner.

After having heard learned counsel for the petitioner as well as learned counsel appearing on behalf of the State and taking into consideration the fact that the cheques given by the petitioner have bounced for which cognizance under Section 138 of NI Act has been taken and entire procedure as per the law enumerated by Parliament for prosecuting the person who is responsible for bouncing the cheque is dealt under Section 138 of NI Act, as as such, I am inclined to grant anticipatory bail to the petitioner.

Accordingly, the petitioner, above named, is directed to surrender before the learned Court below within a period of four weeks from today and in the event of surrender by him, he shall be released on anticipatory bail by the Court below upon furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned A.C.J.M.-III, Jhanyharpur, Madhubani, subject to the condition as mentioned under Section 438 (2) of Cr.P.C.

(Anil Kumar Sinha, J)

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