

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.26882 of 2019

Arising Out of PS. Case No.-1865 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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Birendra Mishra @ Birendra Kumar Mishra, Son of Late Shravan Kumar
Resident of Mohalla - Bahari Begumpur, Shidhe Bazar, P.S.- Bypass, Distt -
Patna.

... .. Petitioner/s

Versus

1. The State of Bihar
2. Ram Chandra Prasad Yadav, Son of Late Kishun Prasad Resident of Asthay
Bahari Begumpur, Sidhe Bazar, Buxaria Tola, P.O.- Begumpur, P.S.-
Bypass, Distt - Patna. At present Bazar Samiti, Main Road, P.S.-
Bahadurpur, P.O. Mahendru, Distt - Patna. - 800006

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Arvind Kumar Mouar

For the Opposite Party/s : Mr.Pradeep Narain Kumar

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CORAM: HONOURABLE MR. JUSTICE ANIL KUMAR SINHA
ORAL ORDER

4 21-08-2019 Heard learned counsel for the petitioner and learned
counsel appearing on behalf of the State.

Petitioner apprehends his arrest in connection with
Complaint Case No.1865 of 2017, for the offence punishable
under Sections 420, 406, 323 of the Indian Penal Code.

The allegation against the petitioner as per the
complaint is that petitioner had entered into an agreement for
sale along with the complainant, Ram Chandra Prasad Yadav,
for sale of a piece of land having a total area of 7 ½ katha with
the complainant, i.e., Opposite Party No.2, for total
consideration amount of Rs.13,50,000/- but despite having



received the entire consideration amount, petitioner did not execute the sale deed in favour of the complainant.

Learned counsel for the petitioner submits that the petitioner is innocent and has no intention to deceive or cheat the complainant inasmuch as earlier there was an agreement between the petitioner and son of the complainant which had failed and there was some dispute relating to that. Therefore, the sale was not executed. Learned counsel further submits that he is ready to refund a sum of Rs.13,50,000/- in favour of complainant.

Learned counsel for the complainant vehemently opposes the prayer for bail and submits that altogether 23,55,000/- was paid to the petitioner by the complainant under receipt but the petitioner has misappropriated the amount of the complainant by not executing the sale deed as promised. However, learned counsel for Opposite Party No.2, complainant without prejudice to any right or contention of the complainant to claim the balance amount from the petitioner, accepts the offer made by the petitioner for refund of sum of Rs.13,50,000/- to be paid by the petitioner to the complainant.

After having heard learned counsel for the petitioner as well as learned counsel appearing on behalf of the



complainant and taking into consideration the fact that offer made by the petitioner for refund of sum of Rs.13,50,000/- is acceptable to the complainant with certain condition, as such, I am inclined to grant anticipatory bail to the petitioner, subject to the condition that a draft of a sum of Rs.13,50,000/- shall be paid by the petitioner to the complainant-Opposite Party No.2 within one and a half month. The complainant is given liberty to claim balance amount, if any, from the petitioner in accordance with law.

Accordingly, the petitioner, above named, is directed to surrender before the learned Court below within a period of eight 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., XIIIth, Patna.

It is made clear that at the time of submitting the bail bond, the petitioner shall submit a proof of payment of Rs.13,50,000/- to the complainant under receipt/ acknowledgment along with surrender-cum-bail application.

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(Anil Kumar Sinha, J)