

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32480 of 2019

Arising Out of PS. Case No.-923 Year-2011 Thana- PATNA COMPLAINT CASE District-
Patna

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AMAN CHOUDHARY, Son of Nagendra Choudhary, Resident of Lakshmi Sagar, P.S.- Lalbagh, District - Darbhanga.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Satyendra Sharma, Son of Late Deobilash Sharma, Resident of A/404, Sangita Apartment, Khajpura, P.S.- Rajiv Nagar, District - Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Sanjay Singh, Adv. Mr. D. N. Tiwary, APP and Mr. Radha Mohan Singh, Advocates
For the Opposite Party/s :		Mr.Ajay Kumar-I, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

3 23-10-2019 Heard learned counsel for the petitioner and learned APP
for the State.

The petitioner is apprehending arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Sections 406 and 420/34 of the Indian Penal Code.

It appears that earlier the petitioner preferred A.B.P No. 4896 of 2011 with a prayer for anticipatory bail, but the said application was disposed of vide order dated 11.11.2011 with a direction to surrender before the learned Court below, but in stead of surrendering before the learned Court below, the



petitioner preferred Criminal Miscellaneous No. 38389 of 2011 before this Court with a prayer for quashing of the order of cognizance dated 16.08.2011, passed by the learned judicial Magistrate, 1st Class, Patna in Complaint Case No. 923 C of 2011. It appears that the petitioner also preferred Criminal Miscellaneous No. 67071 of 2018, which was permitted to be withdrawn vide order dated 08.03.2019 with a liberty to the petitioner to file a fresh application since the order passed in AB.P. No.4896 of 2011 was not available on record.

The prosecution case as per the complaint petition is that the complainant-opposite party no.2 agreed to purchase a piece of land appertaining to Tauzi No.5728, Khata No.1872, Survey Plot No.2499, situated in Mauza-Digha, South Pergana, Survey Thana Phulwari, Thana No.1 old, Ward No.1 admeasuring an area of 2064 sq. ft. for which consideration amount of Rs.8,25,000/- was fixed. The petitioner on behalf of his mother and father executed an agreement for sale of the land in question on 10.11.2008 and at that time, cash amount of Rs.2,50,000/- and two cheques amounting to Rs.50,000/- and Rs.1,25,000/- respectively were given to the petitioner. Though remaining amount of Rs.4,00,000/- was agreed to be paid through bank draft, but despite receiving of the entire consideration amount,



the land has not been transferred by the petitioner.

It appears that this Court vide order dated 28.08.2019, on joint prayer of the parties, referred the matter to the Mediation and Conciliation Centre of the Legal Services Committee of the Patna High Court and the report of the Mediator, dated 14.10.2019, kept at 'Flag-P' reflects that the issue has been resolved between the parties in terms of payment of Rs.8,20,000/- by the petitioner to the complainant by 15.06.2020 and thereafter the complainant will withdraw the cases filed by him against the petitioner in relation to the present issue.

It is submitted by learned counsel for the petitioner that due to laches on the part of the complainant, the sale deed could not be executed. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

It is submitted by learned counsel for the complainant that though the complainant admits the agreement arrived at between the parties during mediation, but she is apprehensive whether the petitioner will pay the entire agreed amount or not.

Considering the nature of accusation and the fact that the issue has been resolved between the parties during the



process of mediation, on the terms of payment of Rs.8,20,000/- by the petitioner to the complainant by 15.06.2020 and thereafter, the complainant will withdraw the cases filed against the petitioner in connection with the present issue, let the above named petitioner be released on provisional anticipatory bail till 15.06.2020, in the event of arrest or surrender before the learned Court below within a period of 12 weeks from today, on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Patna in connection with Complaint Case No. 923 C of 2011, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The provisional anticipatory bail of the petitioner will be confirmed by the learned Court below on submission of substantial proof by the petitioner with regard to payment of entire agreed amount between the parties during mediation.

(Dinesh Kumar Singh, J)

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