

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.57911 of 2018

Arising Out of PS. Case No.-3943 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

=====

Bhushan Kumar Singh, aged about 60 years, Son of Sri Bindeshwari Prasad Singh, R/o Village- Jalalpur, P.O.- Sahay Nagar (Dhanaut) Danapur, P.S. Rupaspur, District Patna (Bihar) Presently resident at Ramnagri More, Abode HDFC Bank ATM, Aashiana Digha Main Road, Aashiyana Nagar, P.S. Rajiv Nagar, District- Patna, Pin Code- 800025.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Anamika, W/o Sri Vijay Kumar, R/o Village- Tehati, P.O.- Silhourih, P.S. Marhowrah, District- Saran, Bihar presently residing at Flat No. 204, Manmohan Palace, Akashwani Road, P.S. Shastri Ngar, Khajpur, District- Patna, 800014.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s : Mr.Raj Nandan Prasad
For the Opposite Party/s : Mr.Sri Sanjay Kumar Tiwary

=====

CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

6 11-01-2019 Heard Mr. Raj Nandan Prasad, learned counsel for the

petitioner and Mr. Shekhar Singh, learned counsel for the

complainant-opposite party no. 2.

The petitioner is apprehending his arrest in a complaint case, wherein process has been directed to be issued after cognizance being taken for the offence punishable under Section 406 of the Indian Penal Code.

The petitioner and the complainant entered into a contract for transfer of a Flat No. 309 in Vision Galaxy Apartment for consideration amount of Rs.18,54,501/-, out of



which certain amount was paid at the time of agreement and the remaining amount was to be paid at the time of execution of sale deed, but the registration was not done in spite of service of legal notice by the complainant and ultimately, the complaint has been filed.

It is jointly submitted by the parties and a joint petition has been filed to the effect that the issue has been reconciled between the parties on the term to the effect that the petitioner will return Rs.6,78,500/- to the complainant and that will be treated as the total advance amount irrespective of the amount of money which has been claimed in the complaint petition. Out of Rs.6,78,500/-, Rs.2,78,500/- has already been paid to the complainant and for the remaining amount i.e., Rs.4,00,000/-, a draft drawn at Bank of India, Ashiyana Branch, Patna has been produced. Let it be handed over to the learned counsel for the complainant-opposite party no.2 for being handed over to the complainant-opposite party no.2, who is present in the Court. It is expected from learned counsel for the complainant-opposite party no. 2 to make endorsement to that effect on the record. As per the joint petition filed before this Court, the complainant will file an appropriate application before the learned Court below to the effect that the issue has



been resolved and she is no longer inclined to prosecute the complaint petition.

It is submitted by learned counsel for the complainant-opposite party no. 2 that in view of the compromise arrived at between the parties, the complainant-opposite party no. 2 is not opposing the prayer for anticipatory bail of the petitioner.

In view of the specific terms of the settlement arrived at between the parties, as has been incorporated in paragraph nos. 3 to 5 of the joint petition, which read as follows:-

“3. That in terms of the settlement arrived between the parties, the petitioner is ready to return an amount Rs.6,78,500/- (Six lakh seventy eight thousand five hundred) as principal amount to the complainant Smt Anamika out of which Rs.2,78,500/- (two lakh seventy eight thousand five hundred) has already been paid and the remaining amount of Rs.4,00,000/- (Four lakh) is being paid through the demand draft bearing D.D. No. 008806 dated 07.01.2019 to be handed over to the complainant before this Hon’ble Court at the time the matter would be taken up.

4. That as per settlement between the parties, the petitioner has already withdrawn the Complaint Case No. 3412© of 2017 filed against the complainant Smt. Anamika and Others. The present



complainant will also not pursue the Complaint Case No. 3943© of 2017 and will withdraw the same upon payment of the remaining aforesaid amount to her by the petitioner.

5. That as a compromise has been arrived between the parties no claim and counter claim between the parties relating to the subject matter of the instant case will survive.”

In view of the present stand of the parties as quoted above, let the above named petitioner be released on anticipatory bail in the event of arrest or surrender before the learned Court below within a period of twelve weeks from today, on furnishing bail bonds of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-8, Patna in connection with Complaint Case No. 3943© of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

It is expected from the learned Court below to proceed in the matter in view of the fact that issue has been resolved between the parties.

(Dinesh Kumar Singh, J)

DKS/-

U		T	
---	--	---	--

