

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.68074 of 2018

Arising Out of PS. Case No.-1987 Year-2017 Thana- BEGUSARAI COMPLAINT CASE
District- Begusarai

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Rajesh Kumar Singh @ Rajesh Singh, Son of Late Rang Bahadur Singh,
Resident of Village- B/28, Chatrashal Nagar, Phase 1, BHEL, Bhopal, MP At
present c/o Jogi Shah @ Yogi Shah, S/o Late Kailu Sah, Resident of Tulsipur,
Shakh, P.S.- Mufassil, District- Begusarai.

... .. Petitioner/s

Versus

1. State of Bihar
2. Jaijeet Singh Ahluwalia, Resident of- Ahluwalia Colony, Ulao, Plot No.
A- 115 Dilmohan Kour Bagh, P.S. Mufassil, Sindhaul O.P., District-
Begusarai.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr. Krishna Prasad, Singh, Sr. Adv. Mr. Jai Kishore Sharma, Adv.
For the Opposite Party/s :		Mr. J. N. Thakur, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

9 24-07-2019 Heard learned counsel for the petitioner and learned
APP for the State.

The petitioner was languishing in custody from
14.08.2018 to January, 2019 in a case registered for the offences
punishable under Sections 420/468/471/385/504 of the Indian
Penal Code.

However, he was granted provisional bail vide order
dated 02.01.2019 since the matter was referred for mediation on
joint prayer of the parties.

The prosecution case as per the complaint filed by the
complainant Jaijeet Singh Ahluwalia is to the effect that
complainant earlier filed a complaint, being Complaint Case No.



857C of 2017 wherein process was directed to be issued after cognizance being taken for the offences punishable under Section 420 of the I.P.C. and Section 138 of the N. I. Act. The accusation in the said complaint was that the petitioner took Rupees Eighty Lacs from the complainant and failed to return the same but subsequently he gave an undertaking on 3.4.2017 that he will sell his land worth Rupees Two Crores appertaining to Khata No.355, Plot No.117, 326/04, 223/05, admeasuring an area of 2.56 acre and Khata No.88, Plot No115/02, admeasuring an area of 2.32 acres situated at Vijay Tala, Rajnand village in the State of Chhatisgarh and will return the loan amount of Rupees Eighty Lacs. The petitioner claimed the land to be his land which is worth Rupees Two Crores. Subsequently, the wife of the petitioner, namely, Smt. Gunjan Singh preferred application for anticipatory bail vide ABP NO. 1366 of 2017 before the learned District and Sessions Judge, Begusarai, wherein the learned District Judge directed for personal appearance of the petitioner and his wife on 28.11.2017 for mediating the issue. On the same day, the petitioner disclosed to the complainant that the land in question actually belonged to one Bimlendu Singh and after his demise, it is in possession of Kanti Singh, wife of Bimlendu Singh and their children. The petitioner further stated that he has executed a forged undertaking. It is alleged that the petitioner



threatened the complainant to return the original copy of the written undertaking dated 3.4.2017 and further gave life threat to the complainant if the complainant will not withdraw the complaint case.

It is submitted by learned senior counsel for the petitioner that the petitioner and the complainant are contractors and both were on business terms, hence huge amount of money was transferred to each others' account. Ultimately, the relationship between the petitioner and the complainant became sour, thereafter the complainant altogether lodged four complaint cases against the petitioner, being Complaint Case No.857 of 2017, Complaint Case No.1277 of 2017, Complaint Case No.602 of 2017 and Complaint Case No. 603 of 2017, but out of four complaint cases, two complaint cases, being Complaint Case No. 602 of 2017 and Complaint Case No.603 of 2017 have been withdrawn by the complainant, while Complaint Case No.857 C of 2017 and Complaint Case No.1277 of 2017 are still pending, but in both the complaint cases, the petitioner is on bail. The main accusation has been levelled in Complaint Case No. 857 C of 2017 is to the effect of taking loan of Rupees Eighty Lacs by the petitioner from the complainant, but the petitioner failed to repay the same even as per the written



undertaking dated 3.4.2017 executed at Dilmohankor Bagh Ulaon in the district of Begusarai whereas in the statement on solemn affirmation the complainant has stated that he was at Bhopal on 4.4.2017 when the petitioner gave cheques of Rupees Fifty Lacs and Rupees Ten Lacs each to the complainant which falsifies the accusation. Moreover, the present case is an off-shoot of the main case being Complaint Case No. 857C of 2017 in which he is on bail. It is further submitted that though the complaint was filed with accusation under Sections 420,468,471,323,384 and 504 of the IPC but the learned Magistrate did not find prima facie case under Sections 323 and 384 of the IPC, as cognizance has been taken under Sections 420,468,471,385 and 504 of the IPC.

It appears that on joint prayer of the parties, vide order dated 02.01.2019, the matter was referred to the Mediation and Conciliation Centre of the Patna High Court and the petitioner was directed to be released provisionally to attend the mediation, but the report of the Mediator dated 05.03.2019 kept at 'Flag-Y' reflects that the mediation could not succeed through the process of mediation. However, the complainant is still ready to settle the issue, if the petitioner returns the entire loan amount. Hence, it appears that the issue



cannot be resolved in the present proceeding.

Learned counsel for the complainant submits that after finding the prima facie case true, the process was directed to be issued after cognizance being taken against the petitioner. It is further submitted that in fact the petitioner submitted a false undertaking in the Court and thereby he cheated the complainant. Similarly, the learned APP submits that finding prima facie case to be true and the fact that the petitioner not only disclosed about the forged written undertaking executed by him but also tried to snatch the file and other articles and gave life threatening to the complainant. Hence, the prayer for bail of the petitioner is fit to be rejected.

Considering the rival submissions of the parties, the nature of accusation and the fact that the thrust of accusation is of taking loan and not returning the same in spite of written undertaking which is the main accusation levelled in Complaint Case No. 857 of 2017, in which the petitioner is on bail whereas the present case being the off-shoot of the above complaint and the period under custody, the provisional bail granted to the petitioner vide order dated 02.01.2019 in connection with Complaint Case No.1987 of 2017, pending in the Court of learned CJM, Begusarai is hereby confirmed.



However, the learned court below will be at liberty to cancel the bail bonds of the petitioner, if he defaults for three consecutive occasions.

(Dinesh Kumar Singh, J)

Ashwini/Anil/

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