

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.40841 of 2018

Arising Out of PS. Case No.-4973 Year-2016 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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Jagdish Pandey, S/o Late Ram Sakal Pandey, R/o Vill.- Ameya, P.S.- Kateya,
District- Gopalganj.

... .. Petitioner/s

Versus

1. State Of Bihar and Anr
2. Dr. Mahima Pandey, S/o Late Ram Sakal Pandey, R/o Vill.- Ameya, P.S.-
Kateya, District- Gopalganj and 8 Lessingham Road, Widness, Cheshire
WA89 FU, England.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Prince Kumar Mishra
For the Opposite Party/s : Mr. Ajay Kumar -2

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

8 17-01-2019 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 offence punishable under Section 420 of the I.P.C.

The prosecution case as per the complaint petition is to the effect that the complainant transferred Rs. 9,00,000/- in four installments in the account of the petitioner, who happens to be younger brother of the complainant, for purchasing a piece of land in Fazil Nagar Market, but neither the land was transferred nor the money was returned to the complainant.



It is submitted by learned counsel for the petitioner that the petitioner and the complainant are own brothers. The complainant is a doctor in U.K. and has obtained citizenship of U.K. It is further submitted that the money was transferred into the account of the petitioner for construction of a hospital, but the same was constructed in the year 2005-07. Subsequently, the relationship between the parties got strained, resulting into filing of a Partition Suit no. 144 of 2012. A statement has been made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent.

Though notices were issued to the complainant and subsequently counter affidavit has been filed on behalf of the complainant to suggest that the amount was transferred into the account of the petitioner, but none is appearing on behalf of the complainant.

It is submitted by learned APP for the State that finding the prima facie case, process has been directed to be issued after cognizance being taken for the offence punishable under Section 420 of the I.P.C.

In view of the fact that even assuming the accusation to be true that money was transferred into the account of the petitioner, even then the offence under Section 420 of the I.P.C.



is not made out against the petitioner and there is nothing on record to suggest that the petitioner has any intention to cheat the complainant, coupled with statement made in paragraph no.3 of the petition that the petitioner is not having any criminal antecedent, 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 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 **ACJM, Gopalganj** in connection with **Complaint Case No.4973 of 2016**, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Dinesh Kumar Singh, J)

Deepak/Rahul/-

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