

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Miscellaneous No.43950 of 2018

Arising Out of PS. Case No.-176 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

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Rewati Raman Prasad S/o Late Kartik Prasad, R/o J-65, P.C. Colony, P.S.-
Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Ram Shankar Prasad Singh S/o Late Ayodhya Singh, R/o Vill.- Sakarbar Tola,
P.O.- Mokama Main Road, P.S.- Mokama, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Sumeet Kumar Singh
		Mr. Abhiprav Singh
For the Opposite Party/s :		Mr.Sri Madhuranand Jha

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CORAM: HONOURABLE MR. JUSTICE SANJAY PRIYA
ORAL ORDER

7 02-01-2019 Heard learned counsel for the petitioner as well as the

State.

In the instant case notice was twice issued to O.P. No.
2 but in spite of valid service of notice none appeared on behalf
of O.P. No. 2.

The petitioner apprehends his arrest in Complaint
Case No. 176(C) of 2016, instituted for the offences punishable
under Sections 420, 406, 323, 504 and 120(B) of the Indian
Penal Code.

Learned counsel for the petitioner has submitted that
from the allegation in the complaint, it will appear that the
matter is of civil dispute. The complainant had already filed suit



for specific performance of contract against the petitioner before learned Sub-Judge 1st, Patna vide Title Suit No. 84 of 2016, which was subsequently dismissed due to non-payment of court fees and proper pairvi.

The complainant has alleged in the complaint that he entered into agreement with this petitioner and accused no. 2 for a residential plot of five katha of land for consideration amount of Rs. 75,00,000/-. At the time of agreement Rs. 2 lacs was paid as advance to the accused persons by the complainant. Later on, on several dates the complainant had paid total amount of Rs. 75,12,000/- by cheque and cash. The complainant has mentioned in the complaint that after executing the agreement for sale on 17.03.2009, the petitioner executed power of attorney in favour of complainant on the same day, i.e. 17.03.2009.

From the complaint petition, it appears that the occurrence has taken place on 10.01.2016 but case has been filed on 15.01.2016. It further appears that no document has been filed in support of allegation that amount of Rs. 75 lacs was paid to the petitioner.

From the nature of allegation in complaint petition, the same appears to be civil dispute for which civil remedy is



available.

Therefore, the prayer for anticipatory bail of the petitioner is allowed. In the event of surrender/arrest of the petitioner, named above, within six weeks from today, in Complaint Case No. 176(C) of 2016, he shall be released on anticipatory bail on furnishing bail bond of Rs. 10,000/- (Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Chief Judicial Magistrate, Patna, subject to the conditions as laid down under Section 438(2) of the Cr.P.C. with further conditions (1) bailors should be local having sufficient immovable property within the jurisdiction of the court concerned, (2) petitioner shall cooperate in the trial and shall be present on each and every date fixed by the court and absence on two consecutive dates without proper and reasonable reason will automatically cancel bail bond of the petitioner and (3) if petitioner tamper with the evidence or the witnesses of the case, in that case, prosecution will be at liberty to move for cancellation of bail of the petitioner.

(Sanjay Priya, J)

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