

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62328 of 2018**

Arising Out of PS. Case No.-107 Year-2017 Thana- SITAMARHI
COMPLAINT CASE District- Sitamarhi

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Mahanand Thakur Son of Late Bimal Kanth Thakur, Resident of near Goshala Mirjapur Postand, Police Station-Lalbagh, District-Darbhanga, Presently Principal Gurukul Sanskrit Mahavidyalaya, Bairgania, Police Station-Bairgania, District-Sitamarhi.

... .. Petitioner

Versus

1. The State Of Bihar
2. Anil Mishra, Son of Late Yamuna Mishra, Resident of Pachtali Ram, Police Station-Bairgania, District-Sitamarhi.

... .. Opposite Parties

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Appearance :

For the Petitioner : Mr. Sunil Prasad Singh, Advocate.
For the O.P. No. 2 : Mr. Ajit Kumar, Advocate
For the State : APP

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CORAM: HONOURABLE MR. JUSTICE VIKASH JAIN
ORAL ORDER

7 28-08-2019

Heard learned counsel for the petitioner and learned APP for the State.

2. The petitioner apprehends his arrest for the offences alleged under Sections 406, 417, 504 of the Indian Penal Code registered in connection with Complaint Case No. CI/107 of 2017.

3. It is submitted that the petitioner has been falsely implicated in connection with non-payment of 17 desks and 17 benches supplied by the complainant. It is submitted that the petitioner is the headmaster of College in which the purchase was made. It is further submitted that the desks and benches have been supplied under the National Rural Employment Programme and the petitioner was not directly responsible for payment in respect of the purchase. In any event the petitioner has already written to the District Magistrate, Sitamarhi in his letter dated 27.06.2019 (Annexure-3 to the supplementary affidavit) requesting that an amount of Rs. 1,00,000/- owing to the complainant be paid either through the executing agency (NREP) or the concerned Engineer. It is submitted that in any



event the transaction in question is purely of civil nature and no criminal offence is made out as alleged. The petitioner claims clean antecedents.

4. Learned counsel for the complainant appears and opposes the petition, submitting that despite supply of the benches and desks in accordance with the order, payment has not been made to the complaint to which he is entitled.

5. Be that as it may, in the event of the petitioner's arrest or surrender before the court below within six weeks from the date of communication of this order, let the above named petitioner be released on bail on furnishing bail bond of Rs.10,000/- (ten thousand) with two sureties of like amount each to the satisfaction of learned Sub-Divisional Judicial Magistrate, Sadar Sitamarhi in connection with Complaint Case No. CI/107 of 2017, subject to the conditions as laid down under Section 438 (2) Cr.P.C., and also subject to the following further conditions -

(i) That one of the bailors shall be a close relative of the petitioner.

(ii) That the petitioner shall not indulge in any similar offence till conclusion of the trial.

(iii) That the petitioner shall cooperate with the investigation, if not already concluded, and make himself available as and when so required and in case of failure, the State shall be at liberty to move for cancellation of bail.

(iv) That the petitioner shall remain physically present in Court on each and every date during trial and in the event of failure on two consecutive dates without sufficient reason, his bail bond shall be liable to be cancelled by the learned Court concerned.

(Vikash Jain, J)

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