

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.70390 of 2018

Arising Out of PS. Case No.-2967 Year-2012 Thana- PATNA COMPLAINT CASE District-
Patna

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Praveen Kumar Wadhera @ Praveen Kumar Wadera, So Late Keshav Chandra Wadhera, Resident of Block No.1 House No.53, P.S.P.O.-Lajpat Nagar-2, New Delhi-24, At Present House No. 566/A, N.H.P.C. Colony, Faridabad Sector-46, P.S.-Surajkund Road, District-Faridabad Haryana.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Jaspreet Singh, S/o Late Jasbir Singh, R/o Flat No.202, 3rd Floor, Gauri Shankar Cpmplex Lohiyanagar, Kankarbagh, P.S.-Kankarbagh, District-Patna, Bihar.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Manindra Kishore Singh, Adv.

For the Opposite Party/s : Mr. Mrityunjaya Kr.Gautam, APP

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

5 16-04-2019 I.A No.01 of 2019

Though the petitioner was granted provisional anticipatory bail by a Co-ordinate Bench of this Court vide order dated 21.12.2018 but since the petitioner could not surrender within the stipulated time, the present Interlocutory Application has been filed with a prayer for extending the period of surrender.

In view of the fact that the petitioner could not surrender in pursuance to the aforementioned order and could not avail the



privilege of provisional anticipatory bail, moreover since the application is finally heard on merits coupled with the reasons stated in the Interlocutory Application, this Court is not inclined to allow the said Interlocutory Application filed for modification for extending the period of surrender.

Accordingly, the present Interlocutory Application is disposed of.

Re. Cr. Misc. No.70390 of 2018.

Heard learned counsels for the petitioner and 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 offences punishable under Section 406 of the IPC and under Section 138 of the N.I. Act.

The prosecution case, as per the complainant, Jaspreet Singh is to the effect that the petitioner, Praveen Kumar Wadhera and his wife, Gulsan Wadhera were known to the complainant and when the complainant wanted to purchase a flat at Delhi, the petitioner and his wife contacted the complainant and gave him a proposal to sell the ground floor of their house situated at Plot No.I-II/53, Lajpat Nagar, New Delhi. Thereafter, in the month of November, 2011, the petitioner and his wife came to the resident of the complainant at Patna and



finalized the deal on the consideration amount of Rs.75,00,000/- and on demand of the complainant, original papers of the house were handed over by the petitioner and his wife to the complainant. Consequently, from November, 2011 to January, 2012 the complainant paid Rs.50,00,000/- to the petitioner and his wife and the remaining amount of Rs.25,00,000/- will be paid at the time of execution of the sale deed. In the month of February, 2012, when the complainant asked the petitioner and his wife to execute the sale deed then they demanded Rs.1,00,00,000/- instead of Rs.75,00,000/- for execution of the sale deed. Thereafter, the complainant asked the petitioner and his wife to return Rs.50,00,000/- which was given as advance to them but they did not return the same. Ultimately, on 28.03.2012, the petitioner and his wife came to the resident of the complainant and issued a cheque of Rs.50,00,000/- with the signature of the wife of the petitioner, Gulsan Wadhera but the same was dishonoured. Thereafter, on 13.09.2012, legal notice was given to the petitioner and his wife but since it was not responded by them, the present complaint was registered.

It is submitted by the learned counsel for the petitioner that though the complaint was filed in the year 2012 and the order of cognizance was passed in the year 2014 but against the order of



cognizance, the petitioner and his wife filed quashing application before this Court vide Cr. Misc. No.12239 of 2014 which was ultimately dismissed by a Co-ordinate Bench of this Court vide order dated 06.04.2018 wherein the interim order of cognizance was stayed.

It is submitted by learned counsel for the petitioner that the complainant, Sarvjeet Singh, who is the witness no.1 in the present complaint case, was the employee in the business firm of the petitioner being run in the name of Wadera Sons, Caterers and Decorators in New Delhi but Saravjeet Singh left the job and took away original document of title, blank cheques and other important documents and since the complainant was the son of brother-in-law of Saravjeet Singh, hence the complainant misused the stolen documents for lodging of the present complaint case. It is further submitted that the petitioner also submitted a written application to the SHO, Lajpat Nagar 2nd, New Delhi on 06.09.2012, leading to registration of Lajpat Nagar P.S. Case No.318 of 2012 against the Saravjeet Singh and as retaliatory measure, the complainant lodged the present complaint case against the petitioner. It is also submitted that the entire payment was made in cash and there is no documentary evidence of the said agreement available on record. Moreover,



the cheque which got dishonoured, was issued by the wife of the petitioner, Gulsan Wadhera who has been granted privilege of anticipatory bail by Co-ordinate Bench of this Court vide order dated 13.03.2019 passed in Cr. Misc. No.70103 of 2018 after considering that fact that a criminal case has been lodged at an earlier point of time by the petitioner against the relative of the complainant.

It is submitted by the learned APP for the State that the thrust of accusation is against the wife of the petitioner who issued cheque of Rs.50,00,000/- which got dishonoured.

It appears that vide order dated 21.12.2018, notices were issued to the complainant / opposite party no.2 and the petitioner was granted provisional anticipatory bail by a Co-ordinate Bench of this Court. The office note dated 05.03.2019, reflects that the notice issued to the complainant / opposite party no.2, was received by his wife and subsequently, since an affidavit of jointness of complainant / opposite party no.2 with his wife was filed, this Court vide order dated 03.04.2019 treated the notices issued to complainant / opposite party no.2 as deemed validly served but even today none is appearing on behalf of the complainant / opposite party no.2.

Considering the fact that the case lodged by the petitioner



against the relative of the complainant at an earlier point of time and the complainant and his relative have been charge sheeted and the said signed cheque book has been stolen by them, there is nothing on record to suggest that any payment has been made to the petitioner coupled with the fact that the wife of the petitioner who issued the check which got dishonoured has been granted privilege of anticipatory bail by a Co-ordinate Bench of this Court, let the above named petitioner be released on anticipatory bail in the event of arrest/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 like amount each to the satisfaction of learned **Sub-Judge-II-cum-ACJM, Patna** in connection with **Complaint Case No.2967(C) of 2012**, subject to the condition as laid down under Section 438(2) of the Cr. P.C.

(Dinesh Kumar Singh, J)

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