

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.45586 of 2019

Arising Out of PS. Case No.-802 Year-2017 Thana- BIHTA District- Patna

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AMAR KUMAR S/o Late Mahendra Singh R/o Village- Imbrahimpur, P.S.-
Bihta, District- Patna.

... .. Petitioner/s

Versus

THE STATE OF BIHAR Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Rajesh Kumar

For the Opposite Party/s : Mr.Ramchandra Sahni

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CORAM: HONOURABLE MR. JUSTICE CHAKRADHARI SHARAN SINGH

ORAL ORDER

4 01-10-2019 Heard learned counsel for the parties.

This application for anticipatory bail arises out of Bihta P.S. Case NO. 802 of 2017, disclosing offences under Sections 341,323,385,406,504 and 506/34 of the Indian Penal Code.

It is alleged against the persons named in the First Information Report that they had entered into an agreement to sell in respect of a piece of land and had taken a sum of Rs.6,79,000/- as advance money. It is alleged that the FIR named accused persons have now refused to execute the sale deed though the petitioner is ready to pay the remaining consideration money and perform his part of contract.

Learned counsel appearing on behalf of the petitioner has submitted that the allegation that the



petitioner has received any advance money is incorrect and in any case, the informant ought to have taken recourse to remedy under Specific Relief Act instead of filing a criminal case as according to him, the allegation does not constitute an offence under Section 406 of the Indian Penal Code.

Learned counsel appearing on behalf of the informant, on the other hand, has argued that there is evidence of existence of an agreement to sell and receiving of the advance money by the petitioner and, therefore, the petitioner does not deserve privilege of anticipatory bail.

Be that as it may, considering the nature of accusation to the effect that the accused persons are not executing sale deed, despite having received the advance money, which has admittedly not been paid by the informant through cheque or any other instrument but by way of cash, a case for grant of anticipatory bail is made out.

This application is accordingly allowed.

Let the petitioner above named in the event of his arrest/surrender within six weeks from today in the Court below, be released on 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 ACJM, Danapur in Bihta P.S. Case No. 802 of 2017, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure.



This is subject to the condition that the petitioner shall present himself before the Police/Court, as the case may be, as and when required and in the event of failure on his part to appear before the Court on two consecutive occasions, his bail bonds shall be liable to be cancelled.

(Chakradhari Sharan Singh, J)

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