

**IN THE HIGH COURT OF JUDICATURE AT PATNA**  
**CRIMINAL MISCELLANEOUS No.55001 of 2019**

Arising Out of PS. Case No.-749 Year-2018 Thana- KHAJANCHI HAT District- Purnia

Kamrul Khan, Male, Aged about 40 years, Son of Late Sk Badrul Hassan,  
Resident of Village Oli Tola, P.S. K. Hat (Madhubani), District Purnea.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Sudhir Jha, Son of Hari Narayan Jha, Resident of Barhari, P.S. Barhara Kothi, District Purnea.

... .. Opposite Party/s

**Appearance :**

For the Petitioner/s : Mr.Saket Tiwary

For the Opposite Party/s : Mr.Akhileshwar Dayal

**CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA**  
**ORAL ORDER**

5      16-11-2019                      Heard both sides.

The petitioner apprehends his arrest in K. Hat (Madhubani) P.S. Case No.749 of 2018, registered under Sections 406, 420, 506 and 120(B) of the Indian Penal Code.

The informant alleged that he entered into an agreement with Md. Nurul Khan for purchasing a piece of land at the rate of Rs.5,50,000/- per katha. The informant paid Rs.1,00,000/- through cheque and Rs.33,000/- in cash on the date of agreement. The informant also paid Rs.1,00,000/- in cash to Md. Nurul Khan and Md. Nurul Khan acknowledged the receipt of Rs.1,00,000/- on the back page of the agreement and put his signature thereon on 14.05.2018 but Md. Nurul Khan returned Rs.1,00,000/- on 21.08.2018 and rescinded the agreement.



Learned counsel for the petitioner submits that the petitioner is the brother of Md. Nurul Khan. The only allegation against the petitioner is that the petitioner facilitated the informant in negotiation for the agreement but the petitioner did not receive any amount of consideration from the informant. On the last date, the petitioner had agreed to return Rs.33,000/- to the informant and the petitioner is still ready to return that amount although the petitioner did not receive any part of consideration amount from the informant.

On the other hand, the learned counsel for the informant submits that the petitioner is a land broker and he happens to be the elder brother of Md. Nurul Khan. He actively participated in the negotiation for sale of the land and only thereafter an agreement to sell was executed between the informant and Md. Nurul Khan. It is further submitted that the petitioner has got criminal antecedent and he is in the habit of cheating the innocent persons on pretext of selling lands. The petitioner is accused in two other criminal cases being K. Hat (Madhubani) P.S. Case No.633 of 2018 and K. Hat (Madhubani) P.S. Case No.748 of 2018, therefore, the petitioner does not deserve anticipatory bail.

It appears from perusal of the FIR itself that save and except the allegation that the petitioner facilitated the informant and his brother, Md. Nurul Khan to arrive at an agreement, there is



no allegation against the petitioner that the petitioner received any amount from the informant either as a land broker or receive any amount from the informant being the brother of Md. Nurul Khan. The petitioner is ready to pay Rs.33,000/- to the informant which his brother had received as part of consideration money.

As the petitioner had undertaken to return Rs.33,000/- to the informant, the petitioner shall return Rs.33,000/- within 45 days from today.

Taking into consideration the fact that since no part of consideration amount or any brokerage is received by the petitioner, let petitioner, above named, in the event of his arrest or surrender before the court below within a period of four weeks from the date of receipt of the order, be enlarged 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 C.J.M., Purnia in connection with K. Hat (Madhubani) P.S. Case No.749 of 2018, subject to the conditions laid down under Section 438(2) of the Code of Criminal Procedure.

**(Prabhat Kumar Jha, J)**

S.KUMAR/-

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