

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.62145 of 2018

Arising Out of PS. Case No.-414 Year-2017 Thana- PATNA COMPLAINT CASE District-
Patna

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Gopal Bhagat, S/o late Dippan Bhagat, Resident of Ashok Nagar Road No. 11, P.S. Kankarbagh, District- Patna.

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Mithilesh Kumar Singh, S/o Kailash Pd. Singh, Resident of Bahadurpur, Housing Colony, 7MF Block-3, Flat No. 16, Bhootnath Road, P.S. Agamkuan, District- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Sanjay Kumar
For the Opposite Party/s : Mr.Sri Surendra Kumar

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH
ORAL ORDER

8 27-02-2019 Heard learned counsel for the petitioner, learned counsel for the complainant-opposite party no.2 and learned APP for the State.

The petitioner is apprehending his arrest in a complaint case wherein process has been directed to be issued after cognizance being taken for the offence punishable under Section 420 of the Indian Penal Code.

The prosecution case as per the complaint petition is that six accused persons including the petitioner, co-accused Ashok Kumar @ Ashok Kumar Pal and Gopal Bhagat took Rs.32,00,000/- as a loan from the complainant for meeting the domestic need in between 14.03.2014 to 04.02.2016 with



promise to return the said amount through Equal Monthly Installments every month. It is alleged that co-accused Saroj Devi mortgaged her house with Central Bank of India, wherein the complainant was a guarantor of the loan but the EMI of bank was not paid, thereafter, the same was paid by the complainant. Subsequently, the accused persons on request made to return the amount, entered into sale of the house for Rs.42,00,000/- to the complainant on condition of release from the bank. It is alleged that subsequently co-accused Ashok Kumar Pal and Gopal Bhagat came to the house of the complainant and gave life threatening.

It is submitted by learned counsel for the petitioner that only Rs.7,00,000/- was transferred in the bank account of the petitioner by the complainant and out of Rs.7,00,000/-, the petitioner returned Rs.2,95,000/- and remaining balance amount i.e., Rs.4,05,000/- is due.

The factum of the quantum of loan amount transferred in the bank account of the petitioner and his family, part payment and the remaining due balance amount are not in dispute.

Learned counsel for the petitioner further submits that the petitioner is ready to return Rs.4,05,000/- in 40 equal installments.



Learned counsel for the complainant submits that Rs.4,05,000/- should be returned without delay since the money is lying with the petitioner since more than four years and he has not been paying any interest.

Considering the fact that issue has been resolved only between the petitioner and the complainant on return of Rs.4,05,000/- , let the above named petitioner be released on anticipatory bail provisionally for 15 months till 30th of May, 2020, in the event of arrest or 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 the like amount each to the satisfaction of learned A.C.J.M.- VI, Patna City in connection with Complaint Case No. 414 of 2017, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

The petitioner is expected to return Rs.4,05,000/- in 15 equal installments. However, at the time of furnishing bail bond, the petitioner will deposit a bank draft of Rs.50,000/- before the learned Court below which will be released in favour of the complainant by the learned Court below. The remaining amount will also be returned by way of submitting bank draft in 14 installments by 30th of May, 2020 before the learned Court



below which will be released in favour of the complainant
forthwith by the learned Court below.

The anticipatory bail of the petitioner will be
confirmed by the learned Court below on deposit of
Rs.4,05,000/- within a period of 15 months.

(Dinesh Kumar Singh, J)

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