

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No. 14304 of 2020

Arising Out of PS Case No.-585 Year-2017 Thana- KADAMKUAN District- Patna

Rajesh Kishore Sharma, aged about 53 years, (Male) Son of Late Yugal Kishor Sharma, Resident of Village - Arya Kumar Road, P.S.- Kadamkuna in the District of Patna.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Ms. Bela Singh, Advocate
For the State : Mr. Bharat Lal, APP

CORAM: HONOURABLE MR. JUSTICE AHSANUDDIN
AMANULLAH

ORAL JUDGMENT

Date : 09-06-2020

The matter has been heard *via* video conferencing due to lockdown imposed on account of the COVID-19 pandemic.

2. Heard Ms. Bela Singh, learned counsel for the petitioner and Mr. Bharat Lal, learned Additional Public Prosecutor (hereinafter referred to as the 'APP') for the State.

3. The petitioner is in custody in connection with Kadamkuan PS Case No. 585 of 2017 dated 14.12.2017 instituted under Sections 406, 420/34 of the Indian Penal Code.

4. The allegation against the petitioner is that despite getting into an agreement after taking money from the informant for development of his land, possession was not given.



5. Learned counsel for the petitioner submitted that the dispute, admittedly, is purely civil in nature and the criminal case is an abuse of the process of the Court. It was submitted that the informant had filed Title Suit No. 236 of 2008, against the petitioner for delivery of possession, which has been dismissed. It was further submitted that Title Suit No. 775 of 2010, has been filed by the petitioner for a declaration that the agreement is not binding on him, in which the informant filed a petition under Order 7 Rule 11 of the Code of Civil Procedure for rejecting the plaint, which has also been dismissed. It was submitted that the petitioner is in custody since 24.12.2019.

6. Learned APP submitted that the petitioner is alleged to have got into an agreement with other persons also relating to the same land for which other cases are also pending against him. However, he could not controvert that the dispute relates to a commercial agreement between the parties and moreover, two title suits have already been instituted and one filed by the informant has been dismissed whereas the one filed by the petitioner is still pending.

7. Having considered the facts and circumstances of the case and submissions of learned counsel for the parties, let the petitioner be released on bail upon furnishing bail bonds of Rs.



25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of the learned Additional Chief Judicial Magistrate, VII, Patna in Kadamkuan PS Case No. 585 of 2017 subject to the conditions (i) that one of the bailors shall be a close relative of the petitioner, and (ii) that the petitioner shall cooperate in the case and be present before the Court on each and every date. Failure to cooperate or being absent on two consecutive dates, without sufficient cause, shall also lead to cancellation of his bail bonds.

8. The application stands disposed off in the aforementioned terms.

(Ahsanuddin Amanullah, J.)

P.Kumar/Anand Kr.

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