

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.22839 of 2020**

Arising Out of PS. Case No.-41 Year-2020 Thana- PURNEA SADAR District- Purnia

ANIL YADAV S/o Sri Rajendra Yadav Resident of Village-Rambagh, Sarna
Chowk, P.S.-Sadar, District-Purnia.

... .. Petitioner

Versus

1. THE STATE OF BIHAR
2. Chadan Kumar Jha S/o Pramod Jha Resident of Village-Padriya, P.S.-
Bihariganj, District-Madhepura.

... .. Opposite Parties

Appearance :

For the Petitioner/s	:	Mr.Pramod Kumar Mallick, Advocate
For the State	:	Mr.Yogendra Kr. Singh, APP
For the Informant	:	Mr. Murari Narayan Choudhary, Advocate

CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER

4 24-11-2020 Learned counsel for the petitioner undertakes to remove all the defects as pointed out by office within four weeks after start of normal functioning of the Court.

Heard learned counsel for the petitioner, learned counsel for the opposite party no. 2 and Mr. Yogendra Kumar Singh, learned APP for the State.

The petitioner, in the present case, is seeking pre-arrest bail in connection with Sadar P.S. Case No. 41/2020 registered for the offences punishable under Sections 406, 420 of the Indian Penal Code.

Learned counsel for the petitioner submits that as per allegations, this informant entered into an agreement with the petitioner for purchasing a land and as per the said agreement the



informant paid Rs. 11,41,000/- to the petitioner. It is further alleged that the informant also spent Rs. 70,000/- in construction of boundary wall and paid certain commissions to one person for preparing papers for registration. The petitioner is said to have received Rs. 12,11,000/- from the informant but later on he refused to execute sale deed of the land.

Learned counsel submits that the petitioner disputes the quantum of amount received by him but admits to return Rs. 11,41,000/- to the informant. It is submitted that the petitioner has already returned Rs. 7,55,000/- out of Rs. 11,41,400/- and he is ready to return the remaining amount of Rs. 3,86,000/-. In this connection, the statement of learned counsel representing the petitioner has been taken note of by this Court in its order dated 29.09.2020 also while granting him interim protection.

Mr. Murari Narayan Choudhary, learned counsel for the informant – opposite party no. 2 submits that the informant has spent approximately Rs. 14 Lakhs in the said transaction and the petitioner must refund the entire amount. It is submitted that out of Rs. 7,55,000/- which the petitioner had paid to the informant, a cheque of Rs. 2 Lakhs stood dishonoured on presentation, therefore, the informant has received only Rs. 5,55,000/- from the petitioner. At this stage, learned counsel for the petitioner submits that after dishonour of the said cheque the petitioner has paid



Rs. 2 Lakhs in cash to the informant, this is being denied by the informant, learned counsel for the petitioner submits that he can produce a receipt showing payment of Rs. 2 Lakhs to the informant in cash after dishonour of cheque.

Having heard learned counsel for the petitioner and learned counsel representing the opposite party no. 2 as also learned A.P.P. for the State, this Court is of the considered opinion that in the given facts and circumstances considering the nature of transactions under an agreement, if the petitioner returns the admitted amount of Rs. 11,41,400/- to the informant leaving it open for the informant to contest with the petitioner in accordance with law for the rest of the amount which he is claiming, the petitioner may be granted privilege of anticipatory bail.

Let the petitioner satisfy the learned court below within six weeks from today with all the payment particulars showing payment of Rs. 11,41,400/- to the informant either in cash or through bank transaction towards refund of the amount under the agreement and in case such proofs are produced and shown to the learned court below to its satisfaction within six weeks from today, the petitioner in case of his arrest or surrender be released on bail on furnishing bail bond of Rs. 25,000/- (Rupees Twenty Five Thousand only) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Purnea in



connection with Sadar P.S. Case No. 41/2020, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C. i.e.

(i) a condition that the person shall make himself available for interrogation by a police officer as and when required;

(ii) a condition that the person shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;

(iii) a condition that the person shall not leave India without the previous permission of the Court.

And further condition that the court below shall verify the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner.

This application stands disposed off accordingly.

(Rajeev Ranjan Prasad, J)

Rajeev/-

U		T	
---	--	---	--

Note: The ordersheet duly signed has been attached with the record. However, in view of the present arrangements, during Pandemic period all concerned shall act on the basis of the copy of the order uploaded on the High Court website under the heading 'Judicial Orders Passed During The Pandemic Period'.

