

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.36923 of 2019

Arising Out of PS. Case No.-1486 Year-2006 Thana- MUZZFARPUR COMPLAINT CASE
District- Muzaffarpur

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YASHWANT PRASAD SINGH @ YASWANT SINGH, aged about 72 years
(Male), Son of Late Ram Sevak Prasad Resident of Village-Laskaripur, P.S.-
Kanti, District-Muzaffarpur.

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Krishna Chandra Kumar Gautam Son of Late Gannu Das Resident of House
No. D-32/2, Muzaffarpur Thermal Power Station, P.S.-Kanti, District-
Muzaffarpur.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Ajay Kumar Thakur, Adv.

For the Opposite Party/s : Mr. Umesh Lal Verma, A.P.P.

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CORAM: HONOURABLE MR. JUSTICE ADITYA KUMAR TRIVEDI
ORAL ORDER

3 23-06-2020 Heard learned counsel for the petitioner as well as

learned A.P.P.

It is evident that irrespective of valid service
O.P.No.2/ complainant did not appear.

For an occurrence allegedly committed on 31.5.1998
and subsequent thereto whereunder, at the instance of accused
no.1 Chandeshwar Paswan negotiation for sale/ purchase of land
belonging to the petitioner/ accused no.2 finalized, whereupon
on 29.6.1998 sale deed was executed. Later on, during course of
mutation, O.P.No.2/ complainant came to know from the local
Karamchari that no such kind of land ever exist. Thereafter,
O.P.No.2/ complainant approached times without number for
return of consideration amount as well as expenses having



incurred thereupon, but on one pretext or the other matter has been delayed and then denied.

Learned counsel for the petitioner has submitted that up-till-now no process has been executed against him. Also submitted that it has been settled at rest by the Special Bench decision of Calcutta High Court in **Shamim Ahmed & ors., Haradhan vs. State & ors.**, reported in 2003 Cr.L.J. 2815, Full Bench decision of Madhya Pradesh High Court in **Nirbhay Singh & Anr. vs. the State of Madhya Pradesh**, reported in 1995 Cr.L.J. 3317 as well as by the Apex Court in **Bharat Chaudhary & Anr. vs. State of Bihar & Anr.**, Appeal (Crl.) 1250 of 2003, that in case of issuance of summon in a complaint case wherein cognizance has been taken under non-bailable offence would give an opportunity to the accused to ask for an anticipatory bail as, the sole criteria happens to be being an accused relating to a non-bailable offence.

That being so, prayer for anticipatory bail is maintainable.

Learned counsel for the petitioner also submitted that malafidness is itself apparent from the fact that for an occurrence committed in the year 1998, the complaint petition has been filed in the year 2006, that means to say, after eight



years which has purposely been filed as O.P.No.2/ complainant had already extended the period of limitation. Further more, it has also been submitted that from a plain reading of the averments of the complaint petition, it is evident that civil dispute has purposely, intentionally, malafidely been given colour as criminal cause. That being so, the petitioner be allowed anticipatory bail.

Learned A.P.P. opposed the prayer and submitted that unless and until the complainant/ O.P.No.2 would not have found cheated, no case would have been lodged.

In the facts and circumstances of the case, let the petitioner Yashwant Prasad Singh @ Yaswant Singh, in the event of his arrest or surrender before the court below within four weeks from today, 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 Judicial Magistrate, 1st Class, Muzaffarpur in Complaint Case No. 1486/2006 (Tr.No. 2328/2018), subject to the conditions as laid down under section 438(2) Cr.P.C.

(Aditya Kumar Trivedi, J)

Surendra/-

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