

**IN THE HIGH COURT OF JUDICATURE AT PATNA
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)
CRIMINAL MISCELLANEOUS No.47950 of 2019**

Arising Out of PS. Case No.-1485 Year-2018 Thana- COMPLAINT CASE District- Jamui

GOPI YADAV Son of Late Arjun Yadav Resident of Village - Rajadih, P.S.-
Sikandara, Dist.- Jamui

... .. Petitioner

Versus

1. The State of Bihar
2. Rambati Devi W/o Late Onkar Bhagat, Resident of Village - Mahadeo
Simariya, P.s.- Sikandara, Dist.- Jamui.

... .. Opposite Party

Appearance :

For the Petitioner/s : Mr.Ram Sumiran Rai, Advocate
For the Opposite Party/s : Mr.Akhileshwar Dayal, A.P.P.

**CORAM: HONOURABLE MR. JUSTICE RAJEEV RANJAN PRASAD
ORAL ORDER**

6 04-09-2020 Heard learned counsel for the petitioner and Mr.

Akhileshwar Dayal, learned APP for the State. Although link

has been sent to learned counsel for the Opposite Party No. 2

however he is not present on call.

The petitioner, in the present case, is seeking pre-
arrest bail in connection with Complaint Case No. 1485(C) of
2018 registered for the offences punishable under Sections
420/120B & 406 of the Indian Penal Code.

Learned counsel for the petitioner submits that the
present case arises out of a Complaint Case filed by Opposite
Party No. 2 on 01.09.2019 in respect of a land deal and
transaction between the complainant and the co-accused
(purchasers) as back as on 20.07.2017. It is alleged that the



complainant had talked to sell her land and this petitioner had approached her for sale of land. According to the complainant the deal was finalized at Rs. 14 Lakhs but on the registry paper the consideration amount was written as Rs. 5 Lakhs only. She has then alleged that this petitioner along with co-accused Lalit Prasad had taken her to Jamui Registry Office where she was told that the other co-accused who was present there will purchase the land. Lalit Prasad is the Katib in the Registry Office who had prepared the sale deed in the name of co-accused Jitendra Bhagat and Dharmendra Kumar Bhagat as purchaser for two decimals of land and another sale deed in the name of Rajeev Bhagat, Subodh Bhagat and Manish Bhagat for the remaining two decimals.

It is alleged that the purchasers of the land gave Rs. 14 Lakhs to this petitioner which the petitioner did not give to the complainant and told her that how can she manage to carry the said amount, he promised to delivery the amount at her house.

It is then alleged that the petitioner and co-accused had taken her thumb impression on the registry paper but thereafter when the complainant demanded the money the petitioner kept on delaying the matter on one pretext or another.



Lastly it is submitted that on 31.08.2018, the petitioner and co-accused Lalit Prasad entered in the house of the complainant, put their pistol on her temporal region and threatened that if she would demand money then she would be killed. She claims that she went to the police station where her F.I.R. was not registered, thereafter she has filed the complaint case.

Learned counsel submits that in view of the Hon'ble Constitution Bench Judgment of the Supreme Court in the case of Lalita Devi the complaint petition should have been affidavited then only it could have been entertained, but no such affidavit was enclosed with the complaint petition as it would appear that the certified copy of the complaint petition (Annexure '1') does not contain any supporting affidavit.

Learned counsel further submits that admittedly the land has not been sold to this petitioner and the transaction is of the year 2017, registry paper discloses the consideration amount at Rs. 5 Lakhs, this complaint has been lodged after one year and one month, therefore the very veracity of the allegations in the complaint petition are doubtful.

Learned counsel further submits that in any case the complainant has no proof of fact except her bald statement that



this petitioner has received Rs. 14 Lakhs from the purchasers.

Learned A.P.P. for the State has though opposed the prayer for anticipatory bail of the petitioner but considering the facts and circumstances of the case, the nature of allegation being related to a sale transaction in respect of a piece of land and in the said transaction the complainant admits to have disclosed in the registry paper the consideration amount at Rs. 5 Lakhs and save and except her statements by way of allegation that in her presence the purchasers had given Rs. 14 Lakhs to this petitioner there is no other material and further this Court has noticed from the Court's question put to the complainant in course of solemn affirmation in answer to which she claims that she is still in possession of the land and rest of the allegations are in the nature of superimposition as there is no other independent witness to the same, I am inclined to grant privilege of anticipatory bail to the petitioner, let the petitioner above-named in the event of his arrest or surrender within a period of four weeks from today in connection with Complaint Case No. 1485(C) of 2018 be released on bail on furnishing of bail bonds of Rs. 25,000/- (twenty five thousand) with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Jamui, 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.

(Rajeev Ranjan Prasad, J)

Rajeev/-

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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'.

