

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.54081 of 2019

In
CRIMINAL MISCELLANEOUS No.65381 of 2018

Arising Out of PS. Case No.-1021 Year-2017 Thana- GOPALGANJ COMPLAINT CASE
District- Gopalganj

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Lalbabu Sharma S/o Kapildeo Sharma R/o village- Madanpur, P.S.-
Basantpur, District- Siwan

... .. Petitioner/s

Versus

1. The State of Bihar
2. Surendra Prasad S/o Late Ram Surat Das R/o village- Sareya Pahad, P.S.-
Sidhwaliya, Distt.- Gopalganj

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Shailendra Kumar Dwivedi

For the Opposite Party/s : Mr.Ram Sumiran Rai

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CORAM: HONOURABLE MR. JUSTICE DINESH KUMAR SINGH

ORAL ORDER

4 29-01-2020 The present application has been filed for

modification of order dated 16.04.2019 passed in Cr. Misc. No.

65381 of 2018 to the extent of extending the period of surrender

and payment to opposite party no. 2, the complainant.

The factual matrix of the case is that the petitioner preferred Cr. Misc. No. 65381 of 2018 with a prayer for anticipatory bail in a complaint case wherein process has been directed to be issued after cognizance being taken for the offences punishable under Section 420 of the Indian Penal Code and Section 138 of N.I. Act.

The prosecution case is, as per the complaint petition, is to the effect that the complainant wanted to purchase a J.C.B. machine from the petitioner for a consideration amount of



Rs.15,60,000/-. Consequently, the complainant paid Rs.5,75,000/- as advance money to the petitioner and the rest amount was to be paid at the time of delivery of J.C.B. machine, but neither the J.C.B. machine was delivered, nor the money was returned to the complainant. Subsequently, the petitioner gave two cheques, worth Rs.5,75,000/- to the complainant, which also got dishonoured.

On submission of learned counsel for the petitioner that the petitioner is ready to return Rs.5,75,000/- to the complainant with a period of three months in three equal installments by way of bank draft in favour of the complainant, the petitioner was granted provisional anticipatory bail for three months which was to be confirmed by the learned Court below on submission of bank draft of entire agreed amount of Rs.5,75,000/- in favour of the complainant.

It is submitted by learned counsel for the petitioner that the petitioner's son fell ill, as a result, he could not surrender nor could he make payment of the agreed amount to the complainant. However, it is submitted that he is ready to make payment of the agreed amount to the complainant.

Considering the aforesaid facts, the order dated 16.04.2019 passed in Cr. Misc. No. 65381 of 2018 is modified



to the extent that the period of surrender is extended by four weeks from the date of receipt/production of a copy of this order in connection with Complaint Case No. 1021 of 2017, pending in the Court of learned ACJM-VI, Gopalganj, but the bail bond will be accepted by the learned Court below if a draft of Rs.5,75,000/- is submitted by the petitioner in favour of the complainant before the learned Court below and the said draft will be released by the learned Court below in favour of the complainant.

Accordingly, this modification application is disposed of.

However, it is made clear that no further modification application will be entertained.

(Dinesh Kumar Singh, J)

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