

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.84438 of 2019

Arising Out of PS. Case No.-1163 Year-2019 Thana- SARAN COMPLAINT CASE District-
Saran

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SANDIP PANDEY S/o Sridhar Narain Pandey, Resident of Utari Dahiyawa Tola (North to Chapra Rly Line), P.S.- Chapra Town, District- Saran at Chapra, Bihar

... .. Petitioner/s

Versus

1. THE STATE OF BIHAR
2. Akshaybar Singh S/o Nand Kishore Singh, Resident of Rewari, P.S.- Kopa, District- Saran (Chapra)

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Binay Kumar Thakur
For the Opposite Party/s : Mr.Ajay Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE PRABHAT KUMAR JHA
ORAL ORDER

4 10-07-2020 Heard learned counsel for the petitioner, learned A.P.P. for the State and learned counsel for the complainant through Video Conferencing.

The petitioner apprehends his arrest in Complaint Case No.1163 of 2019 for the offences allegedly committed by the petitioner under Sections 406, 420 of the Indian Penal Code and under Section 138 of the N.I. Act.

The gist of the allegation is that the complainant had negotiations with the petitioner and his father for purchasing 10 dhooors of land in the premises of the petitioner and for that the complainant paid Rs.12,95,000/- to the petitioner either through cash or through instrument in the account of the petitioner but



the petitioner refused to execute the sale deed. It is further alleged that the petitioner issued two cheques; one for Rs.1,45,000/- and another for Rs.1,50,000/- but when both cheques were presented for encashment, the cheques were dishonoured.

Learned counsel for the petitioner submits that the petitioner is ready to deposit 20% of the cheque amount in the court below but due to Corona Pandemic he could not be able to deposit the amount.

Learned counsel for the complainant as well as learned A.P.P. vehemently opposed the prayer for anticipatory bail and submitted that the petitioner has not yet deposited 20% of the amount as undertaken by him and the same was indicated in the order dated 19.12.2019 of this court.

From perusal of the complaint petition, it appears that the dispute is of civil nature. If the petitioner refused to execute the sale deed, the complainant has got remedy to file suit for specific performance of contract. No case under Section 406 and 420 of the I.P.C. is made out. Section 138 of the N.I. Act is bailable.

Having considered the facts and the nature of allegations made against the petitioner and the fact that if the



petitioner deposits 20% of the cheque amount within four weeks, the petitioner, above named, in the event of his arrest or surrender before the learned court below within a period of four weeks from the date of receipt/production of a copy of this order, is directed to be enlarged on bail on furnishing bail bond of Rs.10,000/- (Ten thousand) with two sureties of the like amount each to the satisfaction of learned C.J.M., Saran at Chapra in connection with Complaint Case No.1163 of 2019, subject to conditions as laid down under Section 438 (2) of the Code of Criminal Procedure.

(Prabhat Kumar Jha, J)

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