

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.10141 of 2020

Arising Out of PS. Case No.-908 Year-2019 Thana- NAGAR District- Vaishali

Md. Asagar @ Mo. Asgar Hussain Son of Md. Yunus Resident of Village -
Bagmali, P.S.- Hajipur Town, Distt - Vaishali.

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Manish Chandra Gandhi

For the Opposite Party/s : Mr. Jitendra Kumar Singh

CORAM: HONOURABLE MR. JUSTICE SUNIL KUMAR PANWAR
ORAL ORDER

5 25-11-2021 Heard learned counsel for the petitioner and

learned APP for the State.

Learned counsel for the petitioner is expected
to honour his undertaking given in the instant case for
depositing the requisite court fee and to remove the
defects as pointed out by the office when called upon to
do so by the office.

The petitioner is apprehending his arrest in a
case registered for the offences punishable under
Sections 341, 323, 379, 406, 420, 504, 506 of the
Indian Penal Code.

It is alleged by the informant that he had given



a consideration amount rupees ten lakhs to the petitioner for executing a sale deed but after lapse of many months neither sale deed was executed nor consideration amount was returned. The informant thereafter organized a *panchayati* and in the *panchayati*, the petitioner returned Rs. 1,61,000/- and gave assurance to return the balance amount within ten months for which he executed a *mahadanama*. It is further alleged that when the petitioner did not return the consideration amount, the informant went to the house of the petitioner and requested to return his money for which he was assaulted by the petitioner and others and cash of Rs. 5000/- was snatched from his pocket.

It is submitted by learned counsel for the petitioner that in fact, the petitioner has filed a complaint case against the informant with an allegation that the petitioner executed a sale deed in favour of the wife of the informant for a consideration amount of rupees ten lakhs. At the time of executing the sale deed, the



informant handed over rupees three lakhs to the petitioner and assured to return the balance amount but in spite of repeated request, the balance amount is not being returned. The informant returned rupees three lakhs to the petitioner by issuing 15 cheques in favour of the petitioner. Hence, if any amount would be found due against the petitioner, then there was no occasion for the informant to give rupees three lakhs to the petitioner by issuing 15 cheques in his favour. It is also submitted that for a civil nature of dispute, the petitioner cannot be prosecuted in a criminal proceeding. Moreover, for the alleged occurrence of making assault by the petitioner on 09.10.2019, the F.I.R has been registered on 12.10.2019.

In the facts and circumstance of the case, let the petitioner, above named, in the event of his arrest or surrender before the Court below within a period of four weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs. 10,000/-(Ten Thousands)



with two sureties of the like amount each to the satisfaction of learned Chief Judicial Magistrate, Vaishali at Hajipur in connection with Hajipur Town P.S. Case No. 908 of 2019, subject to the conditions as laid down under Section 438(2) of the Cr.P.C.

(Sunil Kumar Panwar, J)

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