

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.81206 of 2019

Arising Out of PS. Case No.-1693 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

=====

Md. Shams Hassan, aged about 29 years, male, Son of Md. Mumtaz Hassan,
Resident of Flat No. 103, CSR Residency, Rainipur, Phulwari Sharif, P.S. and
P.O.- Phulwari Sharif, District- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Smt. Dildaroz Khatoon, Wife of Irfan Ahsan Safdari, Resident of 5028, Deep
Ganga Complex, Ashok Rajpath, P.O.- Bankipure, P.S.- Pirbahore, Town and
District- Patna - 800004.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Dewendra Narayan Singh, Adv.
For the O.P. No. 2	:	Mr. Shafiuddin Ahmed, Av.
For the State	:	Mr. Uday Chand Prasad, APP

=====

CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

- 3 01-09-2021 Heard Mr. Dewendra Narayan Singh, the learned

Advocate for the petitioner and Mr. Shafiuddin Ahmed, the

learned counsel for the complainant/opposite party No. 2.

The State is represented by the learned APP.

The petitioner seeks bail in anticipation of his



arrest in connection with Complaint Case No. 1693(C) of 2018 in which cognizance has been taken against him for the offences under Sections 406 and 420 of the Indian Penal Code.

The accusation in the complaint petition is that the complainant/opposite party No. 2 entered into an agreement with Madina Infratech Private Ltd., a builder and property agent, for purchase of a land for a consideration amount of Rs. 22,50,000/-. The company had acquired a right to sell the aforesaid land under an agreement from the landlord. It is alleged by the complainant/opposite party No. 2 that the agreement was valid only for one year and the complainant/opposite party No. 2 was misrepresented that the agreement with the landlord was still valid and money was accepted by the petitioner on behalf of the company. Four post-dated cheques for Rs. 11,00,000/- is said to have been paid to the petitioner which was encashed as well. Later, as the accusation stands, the petitioner stopped receiving the call of the complainant/opposite party No. 2.

Mr. Dewendra Narayan Singh, the learned



Advocate for the petitioner has submitted that the accusation is absolutely false. With respect to the land for which there was an agreement with the company, the owner of the land has already conveyed that property to the complainant/opposite party No. 2. Some amount is still left to be paid and in order to avoid making such payment, the present complaint has been lodged.

In response to the aforesaid argument, Mr. Shafiuddin Ahmed, the learned Advocate for the complainant/opposite party No. 2 has submitted that the accusation in the present complaint is only with respect to the petitioner and another misrepresenting before her that they have a valid agreement with the landlord for transfer of the plot of land to her. Had it not been the case, she would not have paid four post-dated cheques for Rs. 11,00,000/-. That the land has already been transferred to the complainant/opposite party No. 2 is not a defense for the petitioner. The complainant/opposite party No. 2 has directly interacted with the landlord and has obtained the property. Thus, the main accusation against the petitioner is



of misrepresentation and of pocketing Rs. 11,00,000/- for which even the company is making a serious grievance against the petitioner, who, at the relevant point of time, was its Managing Director.

After hearing the counsel for the parties, what appears very surprising is that without getting back the money paid by the complainant/opposite party No. 2 by way of post-dated cheques, land was separately obtained from the land owner. This story does not appear to be trustworthy. There is nothing on record to explain as to under what circumstances the land in question was transferred to the complainant/opposite party No. 2 by the owner of the land. If at all the money received on behalf of the company has not been deposited with the company, it is the company which is at loss and only the company would be justified in prosecuting the petitioner.

In any view of the matter, assuming but not admitting the stand of the complainant/opposite party No. 2 to be correct that the land has been obtained after giving the consideration amount to the land owner, the entire



accusation is mired in suspicion.

For the reasons afore-stated, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of eight weeks, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate-Ist Class, Patna in connection with Complaint Case No. 1693(C) of 2018, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

The application stands allowed.

(Ashutosh Kumar, J)

Praveen-II/-

U		T	
---	--	---	--

