

**IN THE HIGH COURT OF JUDICATURE AT PATNA  
(FROM RESIDENTIAL OFFICE VIA VIDEO APPLICATION)  
CRIMINAL MISCELLANEOUS No.14679 of 2021**

Arising Out of PS. Case No.-1379 Year-2015 Thana- MADHUBANI COMPLAINT CASE  
District- Madhubani

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Giridhar Jha @ Girdhar Jha Son Of Babu Chandradhar Jha Resident Of  
Village- Mangrauni, P.S.- Raj Nagar, District- Madhubani.

... .. Petitioner

Versus

The State Of Bihar

... .. Opposite Party

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**Appearance :**

For the Petitioner/s : Mr. Dilip Kumar Sinha, Advocate

For the Opposite Party/s : Mr. Shailendra Kumar, APP

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

8      19-01-2022                      Heard Mr. Dilip Kumar Sinha, learned counsel for the  
petitioner and Mr. Shailendra Kumar, learned APP for the State.

Despite service of notice which has been received by  
the husband of O.P. No. 2, no one has entered appearance on  
behalf of the complainant.

As per the complainant, she approached the petitioner  
to purchase a piece of land for purpose of residence and he  
agreed to sell a piece of land for which consideration amount of  
Rs.10,16,000/- was agreed upon. On payment of the said  
amount, the petitioner executed the sale deed in the name of the  
complainant on 15.05.2015. with respect to the said land in area  
of 2 kathas, however, when the complainant went on the said  
land, she came to know that the petitioner's elder brother had  
already executed the sale deed in the name of someone else in



the year 2012. After these facts were narrated to the petitioner, he agreed to return the consideration amount to the complainant in installments. She was given a cheque of Rs.3,65,000/- as first installment and the petitioner has promised to pay the rest of the amount either in cash or by cheque. When the said cheque was presented in the bank, the same stood dishonoured in want of sufficient fund.

Learned counsel for the petitioner submits that the petitioner had sold the land for marriage of his daughter and he was not aware that his elder brother had executed a sale deed in the year 2012 itself. It is his further submission that the petitioner had transferred 2 kathas of land to the complainant for consideration amount of Rs.2,50,000/- only but in view of the dispute, the petitioner gave a cheque of Rs.3,65,000/- to the complainant. It is his submission that he had paid certain amount in cash to the complainant in presence of Mukhiya. In paragraph '12' of the petition, statement has been made that out of Rs.3,65,000/- the petitioner has paid Rs.1,50,000/- to the complainant and undertakes to pay the rest of the amount in installment after his release on bail. He is in custody since 28.09.2020.

Having noticed the facts of the case and the stand of



the petitioner, this Court vide order dated 09.09.2021 directed for adding the complainant-O.P. No. 2. Notice was issued to complainant-O.P. No. 2 by both modes. After recording the undertaking of the petitioner, this Court granted him provisional bail for a period of 4 months from the date of the order subject to the conditions u/s 437(3)Cr.P.C. and further condition that the petitioner shall pay Rs.1,50,000/- to the complainant while submitting the bail bond in the learned court below and after release he will pay the rest of the amount of Rs.65,000/- in next two months. This was made subject to the submission of complainant at the time of hearing.

Mr. Dilip Kumar Sinha, learned counsel for the petitioner submits that in fact the petitioner is a poor person and being a marginal farmer, he could not arrange the money of Rs.1,50,000/- from inside the jail as a result whereof he has remained in jail and has not availed the privilege of provisional bail till date.

Learned counsel submits that the case of the petitioner may be considered in the light of the statements made in paragraph '12' of the petition and the petitioner would be ready to deposit a sum of Rs.50,000/- only at this stage while submitting the bail bond. He will pay the rest of the amount to the complainant after his release on bail in 3 installments within



6 months.

From the office notes placed before this Court, it appears that notice was issued to the complainant-O.P. No. 2 by both modes. The ordinary service has been effected and the husband of the complainant has received the notice. The Judge Incharge of the learned court below has recorded 'service valid'. The registered cover has also not returned back unserved, therefore, presumption would be of service.

Despite service of notice, the complainant has not entered appearance. This petitioner has remained in jail since 09.10.2020, therefore, considering the facts and circumstances of the case and the submissions of learned counsel for the petitioner as noticed above and further that there is no opposition on behalf of the complainant-O.P. No. 2, this Court directs release of the petitioner above named on bail on furnishing of bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand Only) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate 1<sup>st</sup> Class, Madhubani in connection with C.R. Case No. 1379/2015/1406/2015 (Tr. No. 1039/2020), subject to the conditions as laid down under Section 437(3) Cr.P.C.

And further condition that the court below shall verify



the criminal antecedent of the petitioner and in case at any stage it is found that the petitioner has concealed his criminal antecedent, the court below shall take step for cancellation of bail bond of the petitioner. However, the acceptance of bail bonds in terms of the above-mentioned order shall not be delayed for purpose of or in the name of verification.

And further condition that at the time of submission of bail bond, the petitioner shall deposit a sum of Rs.50,000/- either in the learned court below or a bank draft of the said amount in the name of the complainant shall be placed before the learned court below while submitting the bail bond. After his release on bail, in terms of his own statement, the petitioner shall pay the rest of the amount i.e. Rs.1,65,000/- in three equal by-monthly installments within 6 months otherwise it will be taken as breach of the condition of bail.

This application stands disposed of accordingly.

**(Rajeev Ranjan Prasad, J)**

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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'.

