

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.53004 of 2022

Arising Out of PS. Case No.-347 Year-2022 Thana- NAGAR District- Vaishali

Mukesh Kumar S/o Late Arjun Prasad Singh R/o village- Sanchipatti, Road
No. 5, P.S.- Hajipur Town, District- Vaishali

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

Appearance :

For the Petitioner/s : Mr. Ravish Mishra, Adv.

For the Opposite Party/s : Mr. Nirmala Kumari, APP.

CORAM: HONOURABLE MR. JUSTICE DR. ANSHUMAN

ORAL ORDER

3 01-11-2022 Let the defect(s), if any, be removed within two weeks
from today.

Heard learned counsel for the petitioner and learned
A.P.P. for the State as well as learned counsel for the informant.

The petitioner seeks regular bail in connection with
Hajipur Town P.S. Case No. 347 of 2022, lodged under Sections
420/406/34 of the Indian Penal Code read with Section 138 of
N.I. Act.

As per prosecution case, the allegation of committing
fraud and grab the money is against the petitioner and others in
the name of selling house.

Learned counsel for the petitioner submits that
petitioner is innocent and has committed no offence. He further
submits that as per allegation, the price of house was Rs.40 lacs

in which advance money is alleged to be received of Rs.12,60,000/-. He further submits that this allegation is false and not correct due to the reason that all transactions were alleged to be made in cash, which is not permissible in law. He further submits that the present case is not maintainable under Section 138 of N.I. Act because the cheque was alleged to be bounced on 14.09.2021 and the F.I.R. has been filed on 01.05.2022 i.e. after lapse of 9 months, according to which this case is completely barred under N.I. Act. He further submits that in such type of cases particularly when there is an agreement of selling of an immovable property, there is already a provision under S.R. Act to take legal remedy, the said remedy is also not being exhausted. Learned counsel for the petitioner further submits that petitioner is in custody since 25.05.2022, charge sheet has already been filed in this case and antecedent of petitioner is clean.

Learned counsel for the State opposes the prayer for bail.

Learned counsel for the informant vehemently opposes the prayer for bail and submits that petitioner is not entitled to grant bail, because he has committed fraud, taken money for selling of house and not sold the house, issued

cheque and the said cheque was bounced back.

In the present facts and circumstances of this case and the submissions made above, let the petitioner above named, be granted bail on furnishing bail bonds of Rs.30,000/- (Rupees Thirty thousand) 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. 347 of 2022, subject to the conditions as laid down under Section 437(3) of Cr.P.C. with other following conditions:

A. The petitioner shall support in trial and shall appear physically before the lower court on each and every date fixed, in case of non-appearance for two consecutive dates without sufficient cause, shall be resulted into cancellation of his bail bond.

B. One of the bailors shall be close relative who shall file affidavit before the court about his relationship with the petitioner.

With this observation, the bail application stands allowed.

(Dr. Anshuman, J.)

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