

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.18021 of 2023

Arising Out of PS. Case No.-1589 Year-2016 Thana- PATNA COMPLAINT CASE District-
Patna

=====

SANJEEV KUMAR MISHRA Son of Sri P.N. Mishra Resident of Moti Mahal, Karamtoli, P.O. and P.S.- Lalpur, District - Ranchi.

... .. Petitioner/s

Versus

1. The State of Bihar Bihar
2. Uttam Kumar Son of Arun Kumar R/o Village - Anuj Sadan, Shiv Nagar Colony Near R.S. Godown, P.O. and P.S.- Beur, Anishabad, District - Bihar.

... .. Opposite Party/s

=====

Appearance :

For the Petitioner/s	:	Mr. Nishant Kumar Jha, Advocate
For the Complainant	:	Mr. Prabhakar Kumar, Advocate
For the Opposite Party/s	:	Mr. Ahmad Ali, APP

=====

CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH SINGH

ORAL ORDER

6 07-11-2023 Learned counsel for the petitioner is permitted to remove the defect(s), as pointed out by the office, if any, within a period of three weeks from today.

2. Heard learned counsel for the petitioner and learned counsel for the complainant as well as learned Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in a case in connection with Complaint Case No. 1589 (C) of 2016 dated 18.05.2016 registered for the offence/s punishable u/ss 420 of the Indian Penal Code and section 138 of the N.I. Act.

4. As per the prosecution case, the complainant gave a



sum of Rs. 9,50,000/- to the petitioner for purchasing of a land bearing plot no. 2085 (sub plot no. 42) but the petitioner neither registered the said land in favour of the complainant nor he returned the money on demand. It is further alleged that after much persuasion, the petitioner handed over a cheque worth Rs. 50,000/- to make the part payment but the said cheque got dishonoured after presentation before the bank.

5. Learned counsel for the petitioner has submitted that the petitioner has falsely been implicated in this case. The petitioner has two other criminal antecedents as stated at para 3 of the bail petition. Learned counsel has submitted that the petitioner has already refunded the entire money. Learned counsel has further submitted that the said agreement was made in year of 2010 and the present complaint was filed in the year of 2016. Learned counsel has further submitted that section 420 is not made out in this case. It is further submitted that it is a case of civil nature. Learned counsel for the petitioner placed reliance on the judgment in the case of **Bimla Tiwari Vs. State of Bihar and others (Special Leave Petition (CRL.) Nos. 834-835 of 2023)** at para 10, the Hon'ble Apex Court has held that "we would reiterate that the process of criminal law cannot be utilized for arm-twisting and money recovery, particularly while



opposing the prayer for bail."

6. Learned counsel for the complainant as well as learned A.P.P. for the State has vehemently opposed the anticipatory bail petition of the petitioner.

7. Considering the aforesaid facts and circumstances of the case, let the above named petitioner, in the event of his arrest/surrender within a period of six weeks from today, be enlarged on bail on furnishing bail-bond of Rs. 20,000/- (Rupees twenty thousand) with two sureties of the like amount each to the satisfaction of the learned court concerned, Patna in connection with Complaint Case No. 1589C of 2016, subject to conditions as laid down under section 438(2) of the Code of Criminal Procedure.

8. The application stands allowed.

(Chandra Prakash Singh, J)

guddukr/-

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

