

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46768 of 2023

Arising Out of PS. Case No.-1256 Year-2019 Thana- WEST CHAMPARAN COMPLAINT
District- West Champaran

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Bhushan Patel @ Bhushan Raut S/O Late Hidayat Raut @ Hikayat Raut R/O
Village- Ghogha Mohachhi Sugar, P.S- Gopalpur, Ward No.10, Distt.- West
Champaran.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Kanhaiya Sah S/O Late Rachandra Sah R/O Village- Ghogha Mohachhi
Sugar, P.S- Gopalpur, Ward No.10, Distt.- West Champaran.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Sanjeev Kumar, Advocate
For the Opposite Party/s : Mr. Ganesh Prasad Singh, APP

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 11-10-2023 Heard learned counsel for the petitioner, learned APP

for the State as well as learned counsel for the opposite party

no.2.

2. The petitioner is apprehending his arrest in
connection with Complaint Case No.1256(C) of 2019,
complaint dated 02.08.2019 registered for the offence
punishable under Sections 406, 417 of the IPC.

3. The prosecution case, in short, is that Bhushan
Patel, villager of Kanhaiya Sah, needed money to do his
important work, so he negotiated to sell the land of 1 Katha and
5 Dhur received from his share in the village. It was settled in
front of the arbitrator for Rs.4,57,000/- and in the fixed form on
03.12.2016, Rs.2,30,000/- were received as advance and the



paper was signed in front of the witnesses on non-judicial stamp of ten rupees and in April 2017, deed registry was promised in favour of *Mudai*. But when the informant discussed with the rural witnesses on 25.04.2017 about registration of the remaining documents, they hesitated. On 15.10.2018, again the accused took Rs.1,97,000/- and instead of registering the deed, wrote the agreement deed on non-judicial stamp of Rs.100/- and said to pay thirty thousand rupees within two months and get the deed registered and encroached upon and took possession of the said land. But the said *Eraji* kept procrastinating in registering the deed and ultimately refused to do the registration.

4. Learned counsel for the petitioner submits that petitioner has clean antecedent. He has falsely been implicated in the present case. He further submits that the allegation as alleged in the complaint petition is false and fabricated and from perusal of the complaint petition, it appears that the petitioner received Rs.2,30,000/- from the complainant and put his signature over a non-judicial stamp and he is ready to pay Rs.2,30,000/- as he has received.

5. Learned counsel for the opposite party no.2 as well as learned APP for the State, on the other hand have vehemently opposed the prayer for anticipatory bail of the petitioner stating



that complainant had paid Rs.4,57,000/- to the petitioner and thereafter the petitioner has refused to execute the sale deed.

6. In view of the aforesaid facts as well as submission of learned counsel for the petitioner, let the petitioner, above named, in the event of his arrest or surrender before the court below within a period of thirty days from the date of receipt of the order, be released on anticipatory bail on furnishing bail bond of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of learned Judicial Magistrate, Ist Class, Bettiah, West Champaran in connection with Complaint Case No.1256(C) of 2019, subject to the conditions as laid down under Section 438(2) of the Code of Criminal Procedure and with other following conditions:-

(i) Petitioner shall produce the Demand Draft of Rs.2,30,000/- in favour of the complainant at the time of furnishing his bail bond and learned court below is directed to handed over the said Demand Draft to the complainant or his representative and the rest amount the outcome of the result shall govern the same.

(ii) Petitioner shall co-operate in the trial and shall be properly represented on each and every date fixed by the Court and shall remain physically present as directed by the Court and



on his absence on two consecutive dates without sufficient reason, his bail bonds shall be cancelled by the Court below.

(iii) If the petitioner tamper with the evidence or the witnesses, in that case, the prosecution will be at liberty to move for cancellation of anticipatory bail.

(iv) 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 antecedents, the court below shall take step for cancellation of anticipatory 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.

(Rajesh Kumar Verma, J)

Prakash Narayan

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