

**IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.55677 of 2023**

Arising Out of PS. Case No.-4775 Year-2022 Thana- MUZFFARPUR
COMPLAINT CASE District- Muzaffarpur

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SHAILENDRA KUMAR SINHA S/O LATE INDRASAN PRASAD SINHA R/O
INDRASAN BHAWAN, POKHARIYAPIR ROAD, ATARHAD, P.S-
KAZIMUHAMMADPUR, DISTT.- MUZAFFARPUR.

... .. Petitioner/s

Versus

1. The State of Bihar BIHAR
2. SANJAY KUMAR S/O LATE KAMALDEO MAHTO R/O MOHALLA-
SADPURA, LANE NO. 4, RAMDAYALU NAGAR, P.S- KAZIMUHAMMADPUR,
DISTT.- MUZAFFARPUR, PIN - 842002, MOB. NO. 7004983609.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s	:	Mr.Avinash Chandra
For the Opposite Party/s	:	Mr.Ajay Kumar Jha
For the Complainant	:	Mr. N.K.Agarwal, Sr. Adv.

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CORAM: HONOURABLE MR. JUSTICE RAJESH KUMAR VERMA
ORAL ORDER

3 13-12-2023 Heard Mr. Avinash Chandra, learned counsel for

the petitioner and Mr. N.K. Agarwal, learned senior counsel
appearing for the complainant as well as Mr. Ajay Kumar Jha,
learned A.P.P. for the State.

The petitioner apprehends his arrest in connection
with Complaint Case No. 4775 of 2022 registered for the
offence under Sections 420, and 406 of the Indian Penal
Code and Section 138 of the N.I. Act.

Petitioner is alleged to have defalcated the money
of the complainant to the tune of Rs. 4,50,000/- which was



paid to the petitioner against the consideration amount for the sale of a piece of land.

Learned counsel appearing for the petitioner submits that the petitioner, who is of clean antecedent, is innocent and has falsely been implicated in this case. He further submits that the allegation, as alleged in the F.I.R., is false and fabricated and the petitioner has not committed any offence. He further submits that from bare perusal of the complaint, it appears that the petitioner entered into an agreement for sale of piece of land on 03.04.2021 with one Baiju Kumar and paid Rs. 400000/- in the bank account of petitioner. He further submits that the petitioner was nowhere in the picture rather the petitioner has entered into an agreement for sale with the co-accused, Baiju Kumar who has received the amount from the complainant. He further submits that since the petitioner has not entered into any agreement with the complainant with respect to sell of his land, question of payment against the consideration amount does not arise, therefore, no case under Section 420 of the Indian Penal Code is made out against the petitioner.

Learned senior counsel appearing for the complainant submits that the petitioner in connivance with



the co-accused, Baiju Kumar has defalcated Rs. 4,50,000/- which has paid to the petitioner's account against the consideration amount for the sale of piece of land.

Considering the facts and circumstances of the case, let the, above named, petitioner, in the event of his arrest or surrender before the court below within a period of four weeks, be released on bail on furnishing bail bond of Rs. 10,000/- (ten thousand) with two sureties of the like amount each to the satisfaction of learned Additional Chief Judicial Magistrate-1st (East) Muzaffarpur in connection with Complaint Case No. 4775 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C. as also with the following conditions:-

(1) 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/her absence on two consecutive dates without sufficient reason, his/her bail bond shall be canceled by the Court below.

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



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.

(Rajesh Kumar Verma, J)

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