

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.4934 of 2022

Arising Out of PS. Case No.-1709 Year-2019 Thana- BHAGALPUR COMPLAINT CASE
District- Bhagalpur

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Manoj Kumar (Male), aged about 35 years, S/o Late Naresh Pajiyara, R/o
village- Jagdishpur, District- Bhagalpur.

... .. Petitioner

Versus

1. The State of Bihar.
2. Babulal Sah, S/o Late Munilal Sah, Resident of Jagdishpur, P.O. and P.S.-
Jagdishpur, District- Bhagalpur.

... .. Opposite Parties

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Appearance :

For the Petitioner : Mr. Praveen Kumar, Advocate
For the State : Mr. A.P.P.

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**CORAM: HONOURABLE MR. JUSTICE CHANDRA PRAKASH
SINGH**

ORAL ORDER

3 01-02-2024 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

Additional Public Prosecutor for the State.

3. The petitioner is apprehending his arrest in

connection with Complaint Case No. 1709 of 2019 dated

18.09.2019 registered for the offences punishable under

Sections 418 and 406 of the I.P.C.

4. As per the prosecution case, the petitioner proposed

the complainant to sell his land, which was accepted by the

complainant on a consideration amount of Rs. 48,00,000/-. Out



of 48,00,000/-, Rs. 47,00,000/- was paid by the complainant to the petitioner on different dates. When the complainant went to the petitioner's house for execution of sale deed, they threatened and pointed a pistol by saying that the time has expired. Now the price of the land has been enhanced. Hence, sale deed would not be executed on the payment which was given by the complainant. Under the pressure of the society and compromise, only Rs. 14,60,000/- has been returned to the complainant by the petitioner and rest of the amount was kept by the petitioner.

5. Learned counsel for the petitioner has submitted that the petitioner is innocent and has been falsely implicated in this case. It is submitted that the complainant had paid only Rs. 17,30,000/- and not Rs. 47,00,000/- and whenever the petitioner received the amount, he signed on the back of the Jarbeyana, which will be clear from the original Jarbeyana. It is further submitted that the present complaint has been filed only when the petitioner gave legal notice on 13.09.2019 to the complainant to pay the dues amount which is admitted in paragraph no. VIII of the complaint instead of replying to the legal notice. It is a case of civil dispute. Learned counsel for the petitioner placed reliance on the judgment in the case of ***Bimla Tiwari Vs. The 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.' The petitioner has clean antecedent as stated in paragraph no. 3 of the bail application. No case is made out against the petitioner.

6. Learned A.P.P. for the State has opposed the prayer for anticipatory bail 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 anticipatory bail on furnishing bail bond of Rs. 20,000/- (Twenty Thousand) with two sureties of the like amount each to the satisfaction of learned court concerned, Bhagalpur or her successor in office, in connection with Complaint Case No. 1709 of 2019, subject to the condition as laid down under Section 438(2) of the Code of Criminal Procedure with further condition:-

I. The petitioner is directed to remain physically present before the learned court below on each and every date, failing which on two consecutive dates without reasonable



cause, the bail bonds of the petitioner are
liable to be cancelled.

8. The application stands allowed.

(Chandra Prakash Singh, J)

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