

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.32607 of 2024

Arising Out of PS. Case No.-109 Year-2016 Thana- JEHANABAD COMPLAINT CASE
District- Jehanabad

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Sujeet Kumar son of Rampreet Prasad Village- Makhdumpur Ps-
Makhdumpur Dist- Jehanabad

... .. Petitioner/s

Versus

1. The State of Bihar
2. Chandra Bhushan Kashyap @ Chandrabhushan Sharma son of Late
Harinandan Sharma Village- Ner Ps- Makhdumpur Dist- Jehanabad

... .. Opposite Party/s

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Appearance :
For the Petitioner/s : Mr. Prince Kumar Mishra, Advocate
For the Opposite Party/s : Ms. Rina Sinha, APP

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CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

2 22-05-2024 Heard Ld. counsel for the petitioner and Ld. APP for
the State.

2. The petitioner seeks anticipatory bail, apprehending
his arrest, in connection with Complaint Case No. 109 of 2016,
registered for the offences punishable under Sections 406,
420/34 of the Indian Penal Code and Section 138 of the
Negotiable Instrument Act.

3. The prosecution case as emerges from the FIR is
that as per the oral agreement between the parties, Petitioner
agreed to sell his house situated at Makhdumpur, Gaya to the
informant for Rs. 20,00,000/-. It is further alleged that after
receiving the aforesaid amount through different cheques and



cash, the Petitioner has refused to execute the sale deed.

4. Ld. counsel for the petitioner submits that the Petitioner is innocent and has falsely been implicated in this case. He further submits that the alleged facts and circumstances at most constitute dispute of civil nature and no way any offence is made out because as per the allegation, there is a contract for sale of some land between the Complainant and the Petitioner and the Complainant as a part payment of consideration amount has given some cash as well as issued cheque to the Petitioner but the Petitioner has not executed the sale deed. He further submits that in the FIR there is no allegation of *mens rea* for non performance of the contract for sale. Further, it is a dispute of civil nature and the Complainant has remedy in Civil Court by filing suit for specific performance.

5. It is also stated in paragraph no. 2 of the bail petition that the petitioner has not moved this Court earlier either for anticipatory bail or regular one in the instant case.

6. It has further been stated paragraph no.3 of the bail petition that the petitioner has no criminal antecedents.

7. However, Ld. APP for the State vehemently opposes the prayer of the Petitioner for bail.

8. Considering the aforesaid facts and circumstances,



this petition is allowed, directing the petitioner, above-named, to be enlarged on bail, in the event of his arrest or surrender before the court below within a period of eight weeks from the date of receipt / production of a copy of this order, on his furnishing bail bonds in the sum of Rs. 10,000 /- (Ten Thousand) with two sureties of the like amount each to the satisfaction of Ld. Judicial Magistrate-Ist Class, Jehanabad, in connection with Complaint Case No. 109 of 2016, subject to the conditions as laid down under Section 438 (2) Cr.P.C. and on the following conditions:

(i) In case, it is brought to the notice of the court below that the petitioner has any criminal antecedents, Ld. court below shall cancel the bail bonds of the petitioner after hearing him and getting satisfied that the petitioner has concealed his criminal antecedents despite his knowledge of the same.

(ii) In case, it is brought to the notice of the court below that statement regarding previous bail petition is wrong, Ld. court below shall cancel the bail bonds of the petitioner.

(Jitendra Kumar, J)

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