

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46818 of 2024

Arising Out of PS. Case No.-3282 Year-2021 Thana- PATNA COMPLAINT CASE District-
Patna

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Md. Afzal Imam S/o Late Sarfraz Alam Resident of village Apna Gharana, New Millat Colony Sector 03, P.S.-Phulwarisharif, District-Patna. and Resident of Ward No.-03, Near F.C.I., Khalipura, P.S.-Phulwari Sharif, District-Patna. At Permanent Add. Village-Lohra, P.S.-Nagar Thana, District-Jamui (Bihar)

... .. Petitioner/s

Versus

1. The State of Bihar
2. Md. Shamimul Haque S/o Md. Badrul Haque R/o Mohalla Qutubuddin Lane, Dariyapur, P.S.-Pirbahore, District-Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Niranjana Parihar
For the Opposite Party/s : Mr. Ajay Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

2 08-08-2024 1. Heard learned counsel for the petitioner and learned A.P.P. for the State along with the learned counsel appearing on behalf of the complainant.

2. The petitioner apprehends his arrest in a case registered for the offence punishable under Sections 406 and 417 of the Indian Penal Code.

3. Learned counsel for the petitioner submits that petitioner has antecedent of one case and the complainant alleges that the accused persons including the petitioner came to know about a piece of land, which was on sale, accordingly, they met the complainant and requested him to sell the land,



thereafter, the cost of the land was fixed at Rs.45 lacs, thereafter, complainant received several cheques of various amount and after encashment of all the cheques, Rs.13, 90,000/- remained due and when he complainant demanded the due amount from the accused persons, it was not paid, though, sale deed was executed in favour of the purchaser of the land in question. The learned counsel submits that petitioner has been falsely implicated in the instant case. It is next submitted that petitioner has not purchased the land in question rather is a witness on the sale deed. It is further submitted that from perusal of the sale deed, it would manifest that the same records that complainant had received the entire consideration, and thereafter, only the sale deed was executed. It is next submitted that if the complainant is aggrieved by the fact that the purchaser of the land duped him by not paying the entire consideration, in that event, the complainant has remedy of approaching a court of competent civil jurisdiction for getting the sale deed cancelled but then the criminal case is not maintainable and the criminal courts should not act as a recovery agent for the complainant.

4. Learned A.P.P. for the State along with learned counsel appearing on behalf of the complainant opposes the prayer for anticipatory bail of the petitioner but are not in a



position to rebut the submission of the learned counsel appearing on behalf of the petitioner that the sale deed records that the entire consideration was received by the complainant and thereafter the sale deed was executed.

5. Considering the submissions made by the learned counsel for the petitioner, the petitioner above-named, in the event of his arrest or surrender before the learned Court below within a period of six weeks from today, be released on anticipatory bail on furnishing bail bonds of Rs.10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned trial court where the case is pending/successor court in connection with Complaint Case No.3282/2021, subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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