

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.44014 of 2024

Arising Out of PS. Case No.-1947 Year-2023 Thana- PATNA COMPLAINT CASE District-
Patna

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RAKESH KUMAR @ PUTUS SON OF LATE KRISHNA KUMAR SINGH
@ KRISHNA SINGH VILLAGE- BAUNK, P.S.- PUNPUN, DISTT.-
PATNA, A/P- MOHALLA- BHUPATIPUR, HARISCHANDRA NAGAR,
EAST OF DOUBLE TRANSFORMER, P.S.- BEUR, DISTT.- PATNA

... .. Petitioner/s

Versus

The State of Bihar

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Deovind Kumar Singh

For the Opposite Party/s : Mr. Anuj Kumar Shrivastava

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

- 2 01-08-2024 1. Heard learned counsel for the petitioner and learned
A.P.P. for the State along with learned counsel appearing on
behalf of the complainant.
2. The petitioner apprehends his arrest in a case
registered for the offence punishable under Section 420 of the
Indian Penal Code.
3. Learned counsel for the petitioner submits that
petitioner has antecedent of one case and the informant alleges
that an agreement for sale was executed in between the
complainant and petitioner regarding a plot of land on non-
judicial stamp paper, it is further alleged that complainant gave
Rs.19, 25,000/- to the petitioner in form of cheque and cash but



after sometime the complainant discovered that the land was disputed, as such, the complainant approached the petitioner for returning his money back but then the amount was not returned, thereafter, on 03.09.2021, a legal notice was sent to the petitioner but the same was not replied.

4. The learned counsel for the petitioner submits that from perusal of the allegation as alleged in the complaint, it would manifest that the dispute is purely civil to which a criminal colour has been given. It is next submitted that petitioner had entered into an agreement for sale of the land in question with one Raushan and thereafter the petitioner based on that agreement for sale had entered into an agreement for sale with the petitioner with respect to 62 kathas of land at the rate of Rs.1 lakh 83 thousand per katha and the complainant paid an amount of Rs.18 lacs but later the agreement of sale could not go through and the instant complaint case came to be instituted. It is also submitted that petitioner had already returned an amount of Rs.8 lacs, in presence of the witnesses and is ready to return the rest amount of Rs.10 lacs, on which, the learned counsel appearing on behalf of the complainant submits that complainant had given an amount of Rs.19,25,000/- and petitioner has not returned a single penny to



the complainant, on which, the learned counsel appearing on behalf of the petitioner submits that the agreement for sale was entered in between the complainant and petitioner in the year 2018, and the instant case came to be instituted in the year 2023, i.e. after five years after the execution of the agreement for sale. It is also submitted that complainant also sent a legal notice on 03.09.2021 but still the complaint case came to be instituted in the year 2023, this was for the reason that the petitioner was returning the amount of the complainant.

5. The learned counsel appearing on behalf of the complainant submits that the complainant is willing to compromise the case provided that petitioner returns the entire amount which he had given to the petitioner, on which, the learned counsel appearing on behalf of the petitioner submits that criminal courts are not to act like recovery agent and if the complainant is really aggrieved by the fact that his money has not been returned, in that event, he has remedy of approaching a court of competent civil jurisdiction for recovering his monetary due, where the petitioner will also appear and will establish that petitioner is not entitled for the amount, which he is alleging in the complaint.

6. Be that as it may, 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.1947(c) of 2023 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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