

IN THE HIGH COURT OF JUDICATURE AT PATNA

CRIMINAL MISCELLANEOUS No.59058 of 2023

In

CRIMINAL MISCELLANEOUS No.81206 of 2019

Arising Out of PS. Case No.-1693 Year-2018 Thana- PATNA COMPLAINT CASE District-
Patna

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Md. Shams Hassan, Son of Late Md. Mumtaz Hassan, Flat No. 103, CSR
Residency, Rainipur, Phulwarisharif, P.O. + P.S.- Phulwari Sharif, Dist- Patna.

... .. Petitioner/s

Versus

1. The State of Bihar.
2. Smt. Dildaroz Khatoon, Wife of Irfan Ahsan Safdari, R/o- 502B, Deepganga
Complex, Ashok Rajpath, P.S.- Pirbahore, Dist- Patna.

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr. Dewendra Narayan Singh, Advocate
For the Opposite Party No. 2 : Mr. Shafiuddin Ahmad, Adv.
For the State : Md. Aslam Ansari, APP

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CORAM: HONOURABLE MR. JUSTICE ASHUTOSH KUMAR

ORAL ORDER

3 05-01-2024 Heard the learned counsel for the parties.

2. This is an application seeking extension of
time to the petitioner to surrender before the Court
below to take advantage of the order dated 01.09.2021
passed in Cr. Misc. No. 81206 of 2019, in connection



with Complaint Case No. 1693(C) of 2018, whereby it was ordered that in the event of arrest or surrender of the petitioner within a period of eight weeks, to be counted from the date of the order, he would be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- with two sureties of the like amount to the satisfaction of Court below.

3. While passing this order, this Court had given hearing to O.P. No. 2/the complainant.

4. The substance of the allegation is two-fold. The petitioner is said to have mis-represented before the complainant/O.P. No. 2 that he still has an agreement with the landlord for disposing off his property, which, according to the complainant/O.P. No. 2, had lapsed and that he accepted a post-dated cheque of Rs. 11,00,000/-, which he pocketed himself and the complainant/O.P. No. 2 had to obtain a sale-deed of the property in question directly through the landlord as his vendor.



5. The contention of the petitioner is that the money which was encashed by him was given to the landlord, which formed the consideration amount for the transfer of the land in question to the complainant/O.P. No.2.

6. Mr. Shafiuddin Ahmad, however, is not in a position to demonstrate that he had obtained the land after paying fresh amount to the landlord and the amount paid to the petitioner was not adjusted against the consideration amount.

7. In the absence of any record of the aforesaid amount not being part of the consideration amount for the transfer of the property, the petitioner was granted the privilege of anticipatory bail. However, because of the illness of his parents, who ultimately died, the petitioner could not surrender before the Court below within the stipulated period.

8. Mr. Ahmad, however, disputes the correctness of the certificates brought on record by the



petitioner in support of his defence that he was held back from surrendering before the Court below for the reason of illness of his parents.

9. Be that as it may, considering the afore-noted facts and taking into account that this application for extension of time was filed in the year 2022 only, this Court is inclined to extend the period for the petitioner to surrender before the Court below, but only after taking into account the statement made at the Bar on behalf of the petitioner that he has not yet been declared an absconder and modify the order accordingly.

10. The order dated 01.09.2021, referred to above, is thus modified to the extent that in case the petitioner surrenders before the Court below within a period of three weeks from today, he shall be released on the same terms and conditions as has been stipulated in the order dated 01.09.2021.

11. However, this Court further grants liberty to the complainant/O.P. No. 2 to move for cancellation of



bail of the petitioner, in case she is in a position to lay her hands on any document which would suggest that the petitioner has pocketed Rs. 11,00,000/- and that money has not been used as consideration amount for the land in question.

12. With the aforesaid modification in the order dated 01.09.2021, the application stands disposed off.

(Ashutosh Kumar, J)

Sauravkrsinha/
Praveen-II-

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