

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.46311 of 2023

Arising Out of PS. Case No.-402 Year-2022 Thana- PATNA COMPLAINT CASE District-
Patna

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Sakaldeep Kumar, Son Of Sri Mahendra Prasad Resident Of Village- Murgiya
Chak, Ps- Hilsa, Distt- Nalanda

... .. Petitioner/s

Versus

1. The State Of Bihar
2. Santosh Kumar, Son Of Ashok Kumar Resident Of Village- Chhoti Pahadi,
Ps- Agamkuan, Dist- Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s :	Mr.Pankaj Kumar
For the Opposite Party/s :	Mr.Jharkhandi Upadhyay- A.P.P.
	Mr.Birendra Kumar Singh
	Mr.Raghwendra Pratap Singh
	Mr.Sujit Kumar

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

3 28-08-2024 1. Heard learned counsel for the petitioner, the

learned counsel appearing on behalf of the complainant and

learned APP for the State.

2. The petitioner seeks bail in anticipation of his

arrest in a case registered for the offences punishable under

Section 420 of the Indian Penal Code and Section 138 of the

N. I. Act.

3. The learned counsel for the petitioner submits

that petitioner and the complainant had entered into an

agreement wherein it was decided, in the event, if any land



is sold, then the profit would be divided equally. It is next submitted that the complainant alleges that a piece of land was sold for which the petitioner had issued a cheque which on presentation for encashment bounced.

4. The learned counsel for the petitioner submits that in sum and substance, the allegation is that the terms of the agreement was breached, but then, mere breach of terms of the agreement does not constitute a criminal offence. It is also submitted that offence under Section 138 of the N. I. Act is bailable and the petitioner will get a chance to rebut the allegations in the trial and to prove his case and in the event, if the petitioner is not able to prove his case in the trial, he will suffer the consequences, but then, no useful purpose would be served by sending the petitioner to jail.

5. The learned counsel appearing on behalf of the complainant as well as learned A.P.P. opposes the anticipatory bail application, but then, the learned counsel appearing on behalf of the opposite party no.2 does not dispute the said fact that there was an agreement in



between the petitioner and the opposite party no.2 on sharing of profit in pursuance of sale of land. The learned counsel fairly submits that breach of condition of an agreement does not give rise to a criminal offence.

6. 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, is directed to be released on bail on his furnishing bail-bonds in the sum of Rs. 10,000/- (Rupees Ten Thousand) with two sureties of the like amount each to the satisfaction of the learned Judicial Magistrate, 1st Class, Patna City, Patna in connection with Complaint Case No.402 of 2022, subject to the conditions laid down under Section 438(2) of the Cr.P.C.

7. The application stands allowed.

(Satyavrat Verma, J)

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