

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.48322 of 2024

Arising Out of PS. Case No.-19 Year-2024 Thana- AMBA District- Aurangabad

Prabhat Kumar Singh @ Prabhat Kumar S/O Shiv Prasad Soni R/O Village-
Amba, P.S- Amba, Distt.- Aurangabad.

... .. Petitioner

Versus

1. The State of Bihar
2. Kumar Manish Singh Alias Kumar Manish Son Of Late Anil Kumar
Resident Of Village, Po ,PS -AMBA District -AURANGABAD

... .. Opposite Partys

Appearance :

For the Petitioner	:	Mr. Ravindra Kumar, Advocate Mr. Sandeep Kumar Pandey, Advocate
For the State	:	Mr. Yogendra Kumar, APP

CORAM: HONOURABLE MR. JUSTICE JITENDRA KUMAR
ORAL ORDER

3 26-10-2024 Heard Ld. counsel for the petitioner and Ld. APP
for the State.

2. The present petition has been filed on behalf of the petitioner, apprehending his arrest, in connection with Amba P.S. Case No.-19 Year-2024 dated 31.01.2024, registered for the offences punishable under Section 420/406 of the Indian Penal Code.

3. As per allegation, the Informant has sold a parcel of land to the Petitioner for a total consideration amount of Rs.1,12,80,000/-, out of which only Rs. 33,00,000/- has been received by the Informant. The rest amount is still due against the Petitioner. As per further allegation, Rs.1,20,00,000/- was



also given by the Informant to the Petitioner for business purpose on loan and two cheques for Rs.10,00,000/- each were issued by the Petitioner in favour of the Informant but the same have been dishonored.

4. Learned counsel for the Petitioner submits that the Petitioner is innocent and has falsely been implicated in this case. He further submits that he has paid the total consideration amount for purchase of the land of the Informant and sale deed was already executed by the Informant in favour of the Petitioner. As far as the claim of the Informant that he has paid Rs.1,20,00,000/- for business purpose is totally false and there is no proof at all filed in support of such claim and for dishonour of cheque, a Criminal Complaint has already been filed by the Informant against the Petitioner. He further submits that the alleged facts and circumstances in regard to non-payment of consideration amount of sale, it is a dispute of purely civil nature and there is civil consequences for non-payment of the total consideration amount, because in the State of Bihar, without full payment of consideration amount and exchange of *Chirkut* (receipt of the money), sale deed is not operative. Hence, in case of non-payment of the consideration amount and non-exchange of *Chirkut* (receipt of the money) by the



Informant/Seller to the purchaser/accused/Petitioner, sale deed would be ineffective/inoperative and in regard to dishonour of cheque, separate Complaint Case is going on and the claim of the Petitioner that he has given Rs.1,20,00,000/- on loan to the Petitioner is without any basis and there is no proof filed in support of such allegation.

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 in paragraph no.3 of the petition that the petitioner has been made accused in two other cases.

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

8. Perused the material on record and considered the submissions advanced by both the parties.

9. I find that the alleged facts and circumstances of the case in regard to non-payment of total consideration amount for sale, constitute a dispute of purely civil nature having civil consequences. If the total consideration amount has not been paid and *chirkut* (receipt of the money) has not been given by the informant to the Petitioner, sale would not be complete and



operative. Refer to **Janak Dulari Devi & Anr. Vs. Kapildeo Rai & Anr (2011) 6 SCC 555**. The informant has also remedy by way of filing money suit for recovery of the outstanding consideration amount. I further find that in regard to claim of giving Rs.1,20,00,000/- to the Petitioner for business purpose on loan is not supported by documentary proof. I further find that in regard to dishonor of cheque, Complaint Case is already separately going on.

10. 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. Chief Judicial Magistrate, Aurangabad in connection with Amba P.S. Case No. 19 of 2024, 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 criminal antecedents other than the disclosed one, 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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