

IN THE HIGH COURT OF JUDICATURE AT PATNA
CRIMINAL MISCELLANEOUS No.77289 of 2023

Arising Out of PS. Case No.-3748 Year-2015 Thana- PATNA COMPLAINT CASE District-
Patna

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ANURAG KUMAR S/o LATE CHANDI SINGH R/o vill - Friends Home
Apartment, road no. 3/B, Flat No. 11, New Patliputra Colony, P.S. - Patliputra,
Dist. - Patna

... .. Petitioner/s

Versus

1. The State Of Bihar
2. SAMEER KUMAR S/o SRI UDAY SINGH R/o vill and P.O. - Manoharpur
Kachhuara, P.s - Gaurichak, Dist. - Patna

... .. Opposite Party/s

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Appearance :

For the Petitioner/s : Mr.Vijay Kumar Sinha
For the Opposite Party/s : Mr.Ajay Kumar Jha

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CORAM: HONOURABLE MR. JUSTICE SATYAVRAT VERMA
ORAL ORDER

5 19-06-2024 1. Heard learned counsel for the petitioner and
learned A.P.P. for the State.

2. The petitioner apprehends his arrest in a case
registered for the offences punishable under Sections 420 and
506 of the Indian Penal Code.

3. The learned counsel for the petitioner submits that
petitioner is a person with clean antecedent and is a
businessman. It is next submitted that a purely civil dispute has
been given a criminal colour. It is next submitted that petitioner
had entered into an agreement for sale with one Ram Sagar
Singh on 4-7-2011 for purchasing 25 bighas 05 kathas of land at
Mauza Makhla, PS- Uttarpara, District-Hoogly (West Bengal).



In pursuance of the agreement dated 4-7-2011, the OP No. 2 entered into a partnership with the petitioner on 11-10-2011, wherein it was agreed that when the project on the land which the petitioner intends to purchase from Ram Sagar Singh commences, the OP No. 2 shall also be a sharer in the profit and loss of the project, accordingly the OP No. 2 invested an amount of Rs. 27 lakh 75 thousand. The deal of the petitioner with Ram Sagar Singh did not materialise on account of which a title suit was filed by the petitioner and others in the court of learned Senior Division Civil Judge at Serampore, Kolkata being Title Suit No. 556 of 2014. It is submitted that the said title suit was filed by the petitioner and others under the Specific Performance Act seeking a direction upon Ram Sagar Singh to execute sale deed in terms of the agreement dated 4-7-2011.

4. The OP No. 2, being aggrieved by the fact that despite investing Rs. 27 lakh 75 thousand, the project did not commence as such instituted the instant complaint case alleging that petitioner cheated him and the learned Magistrate after enquiry took cognizance of the offence under Section 420 of the IPC.

5. The learned counsel for the petitioner submits that in the nature of dispute as alleged in the complaint, it would



manifest that *prima facie* no offence under Section 420 of the IPC is made out. It is also submitted that an agreement was entered in between the company of the petitioner and the OP No. 2 and the agreement was a commercial agreement, but since the project on account of dispute with Ram Sagar Singh could not commence as such the project for which the agreement was entered in between the petitioner's company and the OP No. 2 got withheld. It is thus submitted that there was no intention on part of the petitioner to cheat the OP No. 2 or else the petitioner and his company would not have entered into a written agreement with the OP No. 2.

6. The learned counsel for the petitioner, at the cost of repetition submits that a purely civil dispute has been given a criminal colour and the instant Complaint has been instituted only with a view to coerce the petitioner into submission for recovering the amount which the complainant alleges to have invested in terms of the partnership agreement. It is further submitted that criminal courts should not be used as a tool for recovering monetary dues and if the complainant is aggrieved by the conduct of the petitioner or if there is any breach of the condition of the agreement entered in between the parties, in that event, the OP No. 2 has remedies available in law in



approaching a court of competent civil jurisdiction.

7. Learned A.P.P. for the State and learned counsel appearing on behalf of the OP No. 2 oppose the prayer for anticipatory bail of the petitioner but then are not in a position to rebut the submission of the learned counsel for the petitioner that the dispute was civil to which a criminal colour has been given.

8. 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 trial court 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. 3748(c) of 2015 subject to the conditions as laid down under Section 438 (2) of the Cr.P.C.

(Satyavrat Verma, J)

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